



READINGS
IN
AUSTRALIAN GOVERNMENT

edited by COLIN A. HUGHES

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AUSTRALIAN GOVERNMENT



University of Queensland Press

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edited by

COLIN A. HUGHES

Professor of Political Science

University of Queensland

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PREFACE

The number of students of political science attending Australian universities has grown steadily in the past ten years but their library resources have failed to keep pace. The frustrations of teachers of political science have grown in strict proportion to the widening of the gap between students and sources. Today, when half a dozen universities have first year courses in politics with five hundred or more students apiece, the situation is indeed desperate, and the frantic pursuit of students after a prescribed or recommended article is soon terminated by one enterprising or antisocial individual in their number who converts the pages or the whole bound volume to his own uses.

One remedy has already been provided by Professor Henry Mayer who has edited *Australian Politics: A Reader*¹ to bring together the contributions of a number of politicians and academics over the whole field of Australian government and politics. With a wisdom born of many years of successful teaching, Professor Mayer warned in his preface that teachers too readily send new students off to journals to read articles written for other and more advanced publics with the result that they are mystified and, he might have added, in many cases never look at a journal again. Accordingly his authors wrote new material or revised previously published papers with the first year student clearly in mind. The success of the work, in its second edition within a year, shows how right he was.

Yet there remain some articles, invaluable studies of a particular problem or a particular institution, which are already "classics" of Australian political science, cited in every study of their general field, with which students should be familiar. Combined, they do not constitute a comprehensive survey of the Australian political system for there are still many gaps, but they do provide a quarry from which the conscientious student can derive information, opinions, and a knowledge of some of the techniques of political analysis which he could not obtain elsewhere. They provide a supplement, rather than an alternative, to the survey texts by Crisp,² Davies,³ Miller,⁴ and now Mayer, but at a time in their academic careers when too many students still believe that there should be a single book which will tell them all they need to know such a supplement can be justified.

The twenty-nine articles reprinted in this volume include some which have figured in every teacher's reading list for years and a few which have appeared very recently but are certain to join most lists. Two main criteria have been applied in selection. The work is shaped by the needs of the first year courses currently being taught in Australian universities. Thus it concentrates on national government and ignores state and local government levels, although it can be added that the scarcity of suitable material would have made the presentation of articles of comparable quality over an equally broad range of topics virtually impossible. Again, there is no section on public administration, partly because a number of well-known articles have been added to the second edition of *Australian Politics: A Reader*, partly because it is understood that a collection of articles in public administration is to be compiled at another university, and partly because it appears that most first year courses can give little attention to administration. Similarly, there is no section on the High Court because constitutional law is generally neglected in our introductory courses in political science and left to the law schools and, a closely related point, because most writings on the courts and constitutional law are directed to lawyers and are incomprehensible to first year students of political science.

The second criterion of selection applied has been the availability of the article in question. A number of chapters in symposia which would otherwise have warranted inclusion are still in print or are known to be reprinting. The purpose of this volume is to make available that which would otherwise be unobtainable and, given the substantial bulk it has attained with this point only in mind, comprehensiveness in describing all aspects of national government has been sacrificed. Two articles, by the late Professor Webb and by Professor Sawyer, which appeared in symposia, are out of print, and another, by Professor Parker, has been available only as a mimeographed conference paper. All others appeared in Australian, British, Canadian, or New Zealand journals.

The papers are reproduced as they were originally published; some authors have taken the opportunity to revise their contributions.

Notes to the text are on page 459.

I would like to record my gratitude to the authors concerned for their kind permission to reproduce the articles which follow, and especially to Professor K. C. Masterman for permission to reprint his son's article and to Mr. Nicholas Webb for permission to reprint his father's paper. I have much appreciated the encouragement which several contributors, concerned as I have been with the problem of introducing young Australians to the political life of their continent, gave to the project, and the assistance of the staff of the University of Queensland Press.

My gratitude is due also to the following journals and publishers

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C.A.H.
October 1967

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NOTES ON CONTRIBUTORS

Geoffrey Bolton, Professor of History, University of Western Australia
Keith O. Campbell, Professor of Agricultural Economics, University of Sydney

S. Encel, Professor of Sociology, University of New South Wales

R. D. Freeman, Lecturer in Economic History, University of Melbourne

Anthony Fusaro, Assistant Professor of Political Science, Northern Illinois University, U.S.A.

B. D. Graham, Reader in Political Science, University of Sussex, England

F. O. Grogan, First Assistant Secretary of the Australian Commonwealth Department of Primary Industry

C. G. Headford, an officer of the Australian Commonwealth Taxation Department

Colin A. Hughes, Professor of Political Science, University of Queensland

K. A. MacKirdy, Professor of History, University of Waterloo, Canada

R. M. Martin, Professor of Politics, La Trobe University, Melbourne

The late C. J. Masterman was a student in Political Science, University of Melbourne

R. J. May, an officer of the Reserve Bank of Australia

J. D. B. Miller, Professor of International Relations, Australian National University

J. Monro, Senior Assistant Parliamentary Draftsman in the Australian Commonwealth Attorney-General's Department

J. A. La Nauze, Professor of History, Institute of Advanced Studies, Australian National University

R. S. Parker, Professor of Political Science, Institute of Advanced Studies, Australian National University

P. H. Partridge, Professor of Social Philosophy and Director of the Research School of Social Sciences, Australian National University

G. S. Reid, Professor of Political Science, University of Western Australia

Joan Rydon, Lecturer in Politics, La Trobe University, Melbourne

Geoffrey Sawer, Professor of Law, Institute of Advanced Studies, Australian National University

H. B. Turner, Member for Bradfield in the Australian House of Representatives

The late L. C. Webb was Professor of Political Science, Institute of Advanced Studies, Australian National University

part one | POLITICAL POWER

Australians are pragmatists, and their politicians are pragmatists par excellence. Australian socialism was soon diagnosed as being without doctrines, and Australian conservatism is usually dismissed as being without traditions. Yet since Sir Keith Hancock's eloquent *Australia*¹ it has been indisputable that there are Australian political ideas which warrant attention for the light they cast on Australian institutions and political behaviour. Historians like Professor Russel Ward,² Dr. R. A. Gollan,³ and Father Patrick Ford⁴ have enhanced our knowledge of ideas at the beginning of the story past the First World War, but we still need a local Hofstadter⁵ who will tease the strands of political thought from the fabric of a century and a half of political history. Professor Sol Encel in "The Concept of the State in Australian Politics" has made a good beginning, and his work is supplemented in the studies of political parties by Professor Louise Overacker⁶ and Mr. James Jupp,⁷ of the A.L.P. by Dr. D. W. Rawson,⁸ and the Country Party by Dr. B. D. Graham.⁹

In the study of pragmatic politics it may be best to begin with the mercurial concept of power. In "Some Notes on the Concept of Power" Professor P. H. Partridge provides a critique which has wide applications but is of particular use to us as the framework within which Professor R. S. Parker has examined "Power in Australia". The two papers combined take us from the broadest problems of political theory to the hard realities of Australian politics.

I | SOME NOTES ON THE CONCEPT OF POWER

P. H. Partridge

I

Power is one of the many terms of popular wisdom and discourse that philosophers, historians, and social theorists have also always found indispensable. Until very recently, I think, they have habitually let the word fall in their confident periods without any uncomfortable pricking of the intellectual conscience. This, of course, is no longer true. Power is now a subject of specialized study; there are some even who would make it the "field" of a separate science—I refer especially to those political scientists who have proposed that their subject should be defined as the study of "power" or "influence" or "control", a suggestion which, if there is anything at all in the argument I advance in these "Notes", would certainly present the political scientist with a job and a half. Power has been subjected to minute and detailed conceptual analysis as in the work of Lasswell and Kaplan; it has attracted the attention of the quantifiers; and it is the subject of an ever-increasing flood of empirical studies of actual power structures. It is no longer a common coin of the linguistic realm; at least, every effort is being made to give it the dignity of a scientific concept.

It is permissible to ask: With what success? One might even let fall the subversive hint that the conclusion most clearly intimated by much of the recent work is that power is a concept or phenomenon, too amorphous, sprawling, or chameleon-like ever to be amenable to exact identification, to say nothing of anything that deserves to be called "measurement". Perhaps the sociologists and political scientists would do better to search for a set of more manageable concepts to replace it with; or perhaps it is after all indispensable, but, since this is so, we must reconcile ourselves to the thought that where we are concerned with power, we must be satisfied to live with vagueness, indeterminateness and generality. I do not propose to consider *this* question in these "Notes": it is too hard for me. But we can be sure at

least of this, that we have not approached any nearer the point where we can expect either precision or uniformity in the employment of the concept.

Talcott Parsons, in a review article attacking Wright Mills's *The Power Elite*, rejects many of Mills's empirical conclusions about the distribution of power in the U.S.A. He gives as one of his reasons that Mills works with a defective concept of the nature of power; Parsons goes on to remark that "unfortunately the concept of power is not a settled one in the social sciences, either in political science or in sociology";¹ no one who has read the recent literature of the subject could disagree with him. The same uncertainty attaches to other closely related concepts. Thus, in the *Encyclopedia of the Social Sciences*, Michels defines "authority" as "the capacity, innate or acquired, for exercising ascendancy over a group"; but Bierstedt,² an American sociologist who has written a good deal on these matters, says that this is wrong in every one of its terms: authority is not a capacity, it is not innate, and it is not a matter of exercising ascendancy. He argues that what Michels has done is to confuse authority with something quite different, viz. "competence". We need not illustrate further; in the writing about power (as about freedom) there is no end to the disputes about definition and usage. And these are not merely disputes about usage; as I have briefly hinted by referring to the differences between Wright Mills and Parsons, they are sometimes connected with the different conclusions that different writers reach in their studies of the exercise and distribution of power in actual societies.

It is not hard to see why these differences should persist. We have a series of terms which are obviously very closely related: such terms as freedom, power, influence, coercion, constraint, force, compulsion, authority, leadership, prestige, and so on. In ordinary language, each of these words has an indeterminate use: they are pretty loosely used to stand now for one relationship, now for another. Most of them are open-ended terms: as regards each one of them we know that at a certain point we would at last draw the line and refuse to employ it, but usually we are not able to say at all exactly where we would draw the line. In other words, in almost every case, the situations to which we apply the terms form a continuum (as we shall see in more detail later on in the case of "power") and we do not precisely know at what point on the continuum our use of the term would stop. Thus, there are many situations to which we would not hesitate to apply the description "coercion": but suppose that one man controls the actions of another by offering him bribes which his psychological constitution makes it virtually impossible for him to resist (for instance, plying him with alcohol): is this a denial or impairment of the latter's freedom? (Political moralists have often written as if "bribing the electorate" were an illegitimate way of exercising power.) Again, since we are

referring to situations which form a continuum, pairs or groups of the terms with which we are concerned overlap at the edges. Yet again, though we are dealing here with series of different situations or relationships between persons which "shade" into one another, for the purposes of ordinary life we are not concerned to identify and distinguish the quite different sorts of interpersonal relationships to all of which we may apply such words as "freedom", "power", "influence" or "constraint". One of the purposes of this paper is to point to a few of the different interpersonal relations all of which are frequently described as being examples of the exercise of "power".

These, then, are some of the reasons why it is not surprising that there should be no agreement about usage, or even a very high degree of consistency in the writing of a single writer. And, of course, it goes without saying that there is no set of definitions or usages which should prevail over all others for all purposes. In these "Notes" I am proposing certain ways of viewing the concept of power; but I do not recommend my usages (and my ways of distinguishing "power" from other very closely connected concepts) as being equally valid for all theoretical purposes; as a matter of fact, I have come at the subject of power in this way mainly because it has seemed to me to be useful in illuminating certain questions about freedom. Other writers, with different theoretical purposes in mind, will no doubt continue to propose other usages and other classifications. Thus, as will become apparent later, the classifications and discriminations I point to do not at all coincide with Weber's famous distinction between forms of authority, viz. charismatic, traditional and bureaucratic authority: the distinctions I am especially concerned to illustrate and to insist upon can be found within each of Weber's three types of authority. It is not that I am offering an alternative analysis; the distinctions he is pointing to may quite well be real and extremely important; but he is concerned with different problems.

But there is one point on which it is important to be clear. However we may decide to employ the terms that are available from ordinary language, we must deal faithfully with the facts. In speaking of power, freedom, coercion, and the like, we are concerned with relations between persons and groups of persons; and different types of relations differ subtly from one another, although, as I have mentioned, some shade into others. Whatever system of nomenclature we may find it convenient to adopt, we must ensure that we do not do violence to the qualitative differences between the different sorts of relationships we are really referring to; and especially that we do not treat as being identical relationships which differ from each other in subtle but important ways.

Before I come to my subject there is one more explanation I must make. Political scientists and sociologists are primarily concerned, of course, not with individuals, nor with simple groups of two or three

persons, but with highly organized communities; and they are mainly concerned, therefore, with power in its most highly organized and institutionalized forms. In these "Notes" I shall refer only incidentally to the organized and institutionalized manifestations of power; my examples will be almost always of relations between two persons. I have two reasons for concentrating attention on these extremely simple or "primitive" forms of interpersonal relationships: first, it is easier with these simple relationships to bring out the *qualitative* differences I want to emphasize; and, second, I would argue that these relationships are in a sense fundamental: that is, they are the very relations which we find, most bewilderingly and intricately intertwined, within the complex institutionalized relationships of great groups and highly organized communities. I do not want to deny that institutionalization brings with it additional important elements and complexities; but I would want to maintain that the "primitive" relationships are also present; and further, and most important, that we cannot understand or judge the more complex structures unless we can identify the simpler forms of relations that are involved therein and determine some of their relevant qualitative features.

II

I shall begin with a proposal and work from it. I propose to take "power" as being the most inclusive term, and, within this wider concept, I shall distinguish two poles, the pole of "influence" and the pole of "domination". These will mark the ends of the scale: I shall suggest how we might arrange a number of situations all involving the exercise of power in order along the scale: and I shall also want to mark somewhere on the scale a point that I take to be of especial importance—the point at which a *conflict situation* between the person exercising power and the person over whom it is exercised begins to manifest itself.

First, as regards "power". Russell says that "power is the production of intended effects".³ According to this definition, A has power over B when A can produce certain effects that he intends to produce in B's behaviour. It will be convenient to accept this formulation to begin with; however, later on I shall point out that it brushes aside certain complications that it is very necessary to take into account. The complications mainly concern the notion of power as the *production* of effects, and the requirement that the effects are *intended* effects. However, postponing those matters for the time being, it will be noted that Russell's definition of power is in some respects a very wide one: we could be said to have power over inanimate material like wood or iron because we have the power to produce certain intended effects on those materials. When we use the word in reference to the relations between human beings, we certainly give it a rather narrower reference: thus, the surgeon has power over my body in that he can

produce intended effects upon it, but we should not say that this is an example of his power over *me*. As a concept employed in the discussion of interpersonal relations and social affairs, we give "power" a more restricted range. I shall not try to state exactly what the restriction is: it is sufficient for my purposes to say that A has power over B when A can affect B's acts or behaviour in ways intended by B.

At one end of the continuum of relationships involving the exercise of power we may place "influence". A teacher may have influence over a pupil or a parent over a child; a painter like Cézanne may influence a generation of painters; or a great thinker everyone who subsequently writes about a subject. It will already be apparent that some of these examples raise questions about intended and unintended effects, but we may postpone these: let us assume that the effects are intended effects. At the extreme end of the scale I wish to place the type of situation in which it can be said that A affects the behaviour of B in intended ways, *without its being true that B is required to subordinate his own wishes, inclinations, beliefs, interests, &c. to those of A*. These will be cases in which a conflict situation does not appear at all. Now, it may well be that this is an "ideal" case, never in fact realized, because it may be argued that, wherever influence exists, there is some element of conflict present, some degree of subordination of one man's desires or interests to those of another. This, also, is a matter that will have to be considered more fully later. Nevertheless, it is sufficiently obvious that we can readily distinguish situations which approximate to that which I have defined from those at the other end of the scale which I have arbitrarily called "domination". This, of course, is the type of situation in which A directs or controls the behaviour of B and where A's wishes prevail over those of B: B acts as he does only because he is compelled so to act by A, and would not do so but for A's ability to make him act in ways that he does not want to act. There is manifestly a conflict situation. As an example of the pole of "influence", we may take the example of a scientist who takes a young man into his laboratory, communicates to him his own passion for scientific research, some of his own qualities of mind and character, passes on his own skills, and perhaps by the exercise of the influence that he has, enables the student to become the independent scientist that he wanted to become. Or perhaps it is only gradually that the pupil comes to feel the spell of the master: what initially had elements of conflict or resistance in it may be changed as the situation develops. At the other end of the scale, the gunman's intimidation of his victim manifestly involves a conflict situation.

Now, it is equally obvious that if we begin with the Rutherford-pupil type of relationship, we can slightly vary the conditions and produce a series of relationships which lie along a continuum, getting nearer and nearer to the pole of "domination" or pure coercion. In the Rutherford-pupil relation we can introduce a slight element of domi-

nation: teachers are not unknown who, in order to bind disciples to themselves, use certain advantages they enjoy in order to restrain the natural inclinations or “bent” of their pupils: again (and we must not forget that power is generated by the beliefs, feelings, and attitudes of *both* parties to the relationship) pupils are not unknown who yield to the supposed wishes of teachers because of sanctions that they suppose teachers to possess—for instance, the disposal of good jobs. It is unnecessary to multiply examples: it will be evident that, as one “goes down” the scale, different types of relationships involving the presence of power shade into one another. Of course, this geometrical mode of representation is a very crude expository device; as a matter of fact, as we look more closely at a number of these very complex situations, it is perhaps not so much a matter of one sort of situation being followed by, and shading into, another, but rather of the presence in varying degrees of many different psychological and other components. For this reason, the notion of a continuum may after all be rather misleading, but I can think of no simpler method of exposition.

As you “move down” the scale, sanctions (inducements and penalties to induce compliance with the wishes of one party) begin to appear, but at first in such subtle ways that it is very difficult to determine whether sanctions are operating at all. The difficulty is not only that of the observer; it is often impossible for the actor or patient to know whether his action is affected by consideration of real or possible sanctions, or whether, in conforming to the wishes of another, he is acting “on his own initiative”. Later, of course, sanctions become more obvious and assume increasing severity. Again as we examine types of situation arranged along the scale in relation to the absence and presence of a conflict situation, we observe differences concerning the “bases” or “sources” of the influence or domination that A enjoys over B, and also as regards the “mechanisms” by means of which power is exercised. It is not always easy to distinguish “bases” and “mechanisms”. Thus, the influence of a Rutherford over his pupil may flow in part from his known standing in his science and the authority he enjoys by virtue of his achievement (and these, I suppose, would be examples of what many writers now call “bases” of power); but also in part from felt superior qualities of mind or imagination, and these may perhaps be regarded as mechanisms by means of which influence is exerted. Moving further down the scale, we know that many rulers have managed to dominate subjects not by employing manifest sanctions (either penalties or inducements) but by subtle and hidden means of manipulation—causing the subjects to want what the ruler wants them to want and think what he wants them to think. This is an example of the “shading into” of which I have spoken, and of the extraordinary difficulty often in recognizing the kind of power situations we are dealing with: it is often impossible to say with any

confidence whether we are observing a situation in which B “freely” subordinates himself to an imposed discipline or accepts the authority of a leader or whether his compliance has been secured by means of manipulation by A. Yet, tricky, subtle, and arguable as such distinctions often are, they are the distinctions we are compelled to try to make if we want to describe the structure of power within a social group, the qualitative features of the power relationships that are present, and their significance for the freedom of members of the group.

In ordinary talk, and in much of the writing of political scientists and sociologists, assertions about power, its distribution, its consequences, &c. are often very confidently made; one of the objects of the points I have been making is to suggest that this confidence is usually unjustified. Even in a simple relation between two persons, it is frequently extremely difficult to identify the kind of relationship it is, the motives, the psychological mechanisms, and so on, of the parties in the relation; this difficulty is, of course, very much greater when we are dealing with complex groups and institutions. The position is clearer when the patient in a power relation is aware of a conflict situation, and when overt sanctions are present. In our ordinary talk about power, I imagine that we usually apply the term to situations of this kind, and this is also the practice of many political scientists. I shall return to this point also at a later stage. This does not seem to be a very convenient restriction of the application of the term “power”, and, as we shall see, it can lead to misleading results in the empirical study of social groups and communities. In the political relationships of actual societies, relations of the “influence” type and those of the “domination” type are frequently so much intertwined, are causally so closely interconnected, that it is not very sensible to make an analysis of a political structure which leaves on one side the relationships which I have called “influence”. For example, in the analysis of many examples of political “leadership”, it would be impossible not to bring into the reckoning relations both of “influence” and “domination”, and the manner in which they interact with one another.

III

Let me now return to Russell’s “Power is the production of intended effects”. If we confine our attention to situations down towards the “domination” end of our scale, we shall emphasize *intended* effects: the power of the gunman is certainly his production of intended effects—for instance, the handing over of the contents of the till. But if we look at relations of influence, the position is more difficult: the influence A has on B is sometimes intended, sometimes unintended; furthermore, A may be either conscious or unconscious of the influence he has upon B, and similarly B may be conscious or unconscious of the fact that he is being influenced. Towards the end of these “Notes” I

want to suggest some reasons why a realistic or adequate study of political or social power cannot afford to discount unintended effects. On the other hand, it is easy to see why the majority of social scientists agree with Russell in connecting power with intended effects only. In the first place, intended effects are much easier to deal with empirically: we can observe A expressing a wish or demand or a policy: we can observe B's disagreement or reluctance: and we can observe B's final compliance with A's demand. In the case of unintended effects, it is often more difficult to establish the fact that there has been influence at all, and not merely a coincidence of decisions. Moreover, the concept of unintended influence is a tricky one to deal with; clearly, it would be impossible to claim that A is influencing B whenever he produces unintended effects on B. Mr. Menzies produces unintended effects on *The Sydney Morning Herald*: we should scarcely say that he is influencing *The Sydney Morning Herald*. (Actually he is, but not in the sense that is relevant to this discussion.) Apparently, it is not simply a matter of A producing unintended effects on B; it appears, roughly speaking, that unintended effects are equated with being influenced when B becomes more like A, adopts his opinions, or his preferences, or his way of living: the once much-discussed "embourgeoisement" of the working class is perhaps a sociological example of influence in the form of unintended effects, and one that supports the point already made that a realistic account of social power can hardly afford to ignore influence as the production of unintended effects. On the other hand, if the unintended effect the parent has on the child is to stiffen the child's determination to be as different from the parent as possible, such influence would not be taken as an instance of power.

What has been said of unintended influence illustrates again the manner in which any one of these power relationships becomes a whole family of relationships as soon as we inspect it closely. Let us separate out just two or three of the relationships that we may call unintended influence. A may influence B in the sense that B repeatedly imitates A, adopts his opinions or his style, acts as he acts, and so on. We may say that A has power over B in the sense that he, albeit unconsciously, decides for B, is the dominant character of the pair. At the same time, it may be in no way to A's advantage that this should be so; there may be no interest of A's that is furthered by this situation; on the contrary, if B is a lieutenant from whose advice A wishes to profit, it may be a defect in him from A's point of view. But, secondly, we may have a situation which is identical with the first except for this, that B's "reflection" of A may have the effect of supporting or strengthening some interest of A's, of helping to secure him in some position or way of life that he enjoys. Now, obviously, this is a very important type of situation for the analysis of political power or the power structure of a society: the tendency of the mem-

bers of a society to imitate or take their colour from ruling groups or *élite* groups has often been one of the most important factors in maintaining the political and social position of such groups. Some of the things Marx says about the absorption of the ideology of a ruling class give examples of this mechanism. Or, thirdly, if we say that Joyce exercised a great influence upon many subsequent writers, what is the analysis of this relationship? The influence is not only a matter of conscious or unconscious imitation; some writers rather developed and exploited in their own way techniques that he taught them; but, although they were original and independent writers, Joyce's influence is apparent, and they could not have written as they did but for him. We may hesitate to class this example of unintended influence as a form of power; yet in principle it is not very different from forms of power or influence in the field of political and social action; political and social leadership can be sometimes partly a matter of unusual power of imagination and inventiveness. The chief difference seems to be this: unlike the influence exercised by a book, political leadership is a reciprocal relation persisting over a considerable period of time; and the leadership is, so to speak, being repeatedly renewed by fresh acts of inventiveness. But often it is a form of influence identical neither with the first nor with the second of the other two forms I have also pointed to.

IV

Russell says "the *production* of intended effects". But, of course, sociologists and political scientists, when they speak of power, wish to include, not only the actual production of effects, but also a capacity to produce effects if and when the power holder should decide to produce them. This is a distinction which is implicit in most of our discussion of power in social affairs: we may make statements to the effect that "the working class does not realize the power that it possesses", or again, we may say that a strike or a war will be a test of the distribution of power. There is a distinction involved here between what might be called manifest and latent power which is of central importance for the study of power as a political and social phenomenon; however, it is connected with matters which cannot be dealt with in the compass of these "Notes". I shall touch on one aspect only.

In organized societies, there is power that is institutionalized and power that is not; it follows from what I have said that power may be present in almost any relationship between two persons, it "flows" in every nook and cranny of interpersonal and social life; thus institutionalized, or socially sanctioned and defined, power is only one of many forms which power takes. The sanctioned or institutionalized power that a man has we may call his "powers"; and it will usually be necessary in empirical study to distinguish his powers from his

power. Sometimes the two coincide (thus, in this country, the power of the ticket inspector on the train will usually not exceed his powers); sometimes his power will fall a great deal short of his powers, sometimes it will exceed them. Men who occupy the greatest offices very often acquire power beyond what is authorized by their powers, because high office frequently attracts to its holders an awe or deference which endow them with additional sources and forms of influence—this is what some sociologists call the “halo effect”. This suggests that it will not do to define power as the *production* of intended effects. Suppose we are deciding whether to launch a revolt against the dictator who now rules us. We try to estimate the power he now has. The estimation of his present power is not the same as observing the effects he now produces or has produced in the past; our task is to estimate what effects he will be able to produce when we challenge him. In other words, the concept of power does not *always* refer to a process between persons that is actually in train; power is not something that is present only when the process of producing effects is actually going on (in the way that life can be said to be present only while certain chemical and other processes are occurring); the concept may *also* refer to the capacity to produce effects in the future. We say sometimes that a man has the power to do so and so even though we believe that he will never in fact act to produce the effects in question. The identification of power with the production of effects would make nonsense of much of what we habitually say about power in social affairs.

Thus, we encounter another difference of meanings which writers often fail to notice. When I was discussing the scale from “influence” to “domination”, I had in mind interactions or transactions actually occurring between persons; it would have been meaningless to speak of such things as voluntary acceptance of discipline, manipulation, sanctions, a conflict situation, &c. if that were not so. Similarly, it would be meaningless to speak (as we have done) about qualitative differences between different sorts of power relation unless we are thinking of power as an interaction, a process actually in train. If, however, the power we are referring to is the present power to produce effects in the future, *part* of what we are talking about must be a man’s control over the means sufficient to produce the effects—as when we say that “wealth is power”. In recent writing the distinction is sometimes made between power itself and the “power base” (whatever it is in virtue of which a man can exercise power);⁴ but it now appears that, so far as one of the most common and important conceptions of power is concerned, the “power base” is itself part of the power we attribute to the power holder.

But only part. If we say that A has great power (that is, power to produce effects in the future) we refer not only to his wealth, intelligence, skill, physical strength, or whatever the “bases” may be. Power,

in any of its senses, is always a structure of relations; we can only attribute power to a man with reference to other persons; and, in fact, in most of the statements we make about the possession of power, the other persons are not specified. But obviously our estimate of A's power must refer, not simply to the "bases" that A controls, but also to attributes and "bases" of B and C and D. A has as much power as he has partly because A, B and C desire money as much as they do, or are as credulous or as physically timid as they are.

Summing up this part of the discussion, we may conclude that attributions of power always (or almost always) involve future reference. Assertions about the power that an individual or a group possesses are assertions about *both* an existing structure or system of processes and also about future effects. Influence, and other concepts of power, refer to continuing structures; they refer to systems of causally related actions which are constantly repeated; and they are often used in a way that involves a projection into the future. So far as this is so, the empirical analyses of social power structures which are undertaken by sociologists and political scientists are not purely contemporary or purely descriptive exercises; they will include rather complicated predictions about the future, assumptions which it will be very difficult to make explicit about effects that will follow if certain decisions are made or certain other events occur.

V

Let us now glance briefly at another complication. What are the future events we have in mind when, at this moment, we attribute power to A? I have said that we are referring, not only to future events, but also to other persons (usually unspecified). But we can easily see that this is an over-simplification. In addition to the aspects of power we have already pointed to—the character of the interrelated motives and desires of the actors, the presence or absence of a conflict situation, the mechanisms and bases of power—we must introduce still another aspect in order to explicate the concept, what we may call the "field"; that on which the power holder operates or within which he produces his effects. Attributions of power are incomplete, and strictly meaningless, unless there is at least some specification of the "field".

Between persons and within social groups, power is, of course, distributed and diffused in infinitely complicated ways. And even with simple relations between two persons it will not be easy to find a case where the weaker is literally *powerless* in relation to the stronger. It seldom happens that B is so weak that he cannot compel A to pay a price he would rather not pay for the sake of enforcing his will. Because of the virtual omnipresence of power in human relations, our attributions of power to particular persons are comparative more often than we realize; they are quantitative judgments. A powerful man is like a moneyed man; most of us have some money, but not as much

as the moneyed man. And when we look more closely at what these quantifications involve, we see the relevance of what I have called the “field”.

There are a number of different dimensions that we are (usually implicitly) quantifying. I shall mention three by way of example. First, the power of a “powerful” man may relate to the number of men he can influence or coerce: Billy Graham is a more influential lecturer than I am, Menzies a more powerful man, because they can affect the behaviour of far more men than I can. This dimension may be called the “range” of power. Second, the power that A has over B is relative also to the particular set of B’s interests, desires, or activities that are amenable to A’s influence or control. If I try to influence the views my students have about Marx, I may succeed; if I try to influence, still more to prescribe, their choice of wives, they will ignore me. Following Simon,⁵ we call this dimension the “zone of acceptance”; and clearly it is of fundamental importance in describing the distribution of political and social power; a government may have very great power within some “zone of acceptance”, but its power can quickly evaporate if it attempts to operate outside that zone. Thirdly, we find also that within the “zone of acceptance”, and with respect to *one* particular segment of a man’s interests or activities, there is a limit to the extent that another can influence or control this segment. A Fagin may have established a great influence or domination over an apprentice in crime, but the apprentice may rebel rather than be induced to attempt certain particular crimes. This dimension we call the “intensity” of power; it, too, is an extremely important one in the analysis of political power.⁶ A commander may be able to compel his troops to endure a certain amount of suffering; but perhaps there is a limit beyond which mutiny will occur.

Thus, when we attribute power to a man, and especially when our attribution is comparative (as it usually is), we were referring to a “field” in which the power holder operates, and we are giving quantitative values to these and no doubt to other dimensions. There is no reason, of course, to suppose that these dimensions are commensurable. For this reason, it does not seem likely that measurements of political and social power, including judgments about the distribution of power, have, or can ever have, any very exact meaning. In particular cases we might try to increase comparability by restricting comparisons to positions on a single dimension; but this will not often be very illuminating in dealing with the extremely intricate power relations of a political system or a complex social group.

VI

Thus, it is usually easy to pick holes in empirical studies of the power structure of actual societies. Wright Mills’s book, *The Power Elite*,⁷ has been attacked on the ground that Mills does not define the criteria

which in his opinion would have to be met before one could say that a particular group of men (say, the top men in the Pentagon) have the predominance of power in the U.S.A., and that consequently the assertions he makes about the distribution of power in the U.S.A. cannot be verified. As we have suggested, it is probably impossible for "logical" reasons for any global study of the structure of power within a society to meet these requirements.

R. A. Dahl, in an article which criticizes Mills's book on these grounds, outlines a method for the study of the distribution of power.⁸ To abridge fiercely, what he proposes is something like this: one must start with a conflict situation, on a cluster of conflict situations. One must identify in advance the conflicting interests and demands within the situation or situations. And one must then be able to show, over a period of time and in a specified proportion of cases, that the demands or interests of one group have prevailed or predominated in the decisions that are finally taken.

No doubt, some such method will often be applicable, yet there is much that could be said about this recipe for the empirical study of the distribution of power. In the first place, it will be noticed that Dahl has especially in mind what I have called the "domination" sector of the power continuum: his procedure would not be applicable to what I have called the "influence" sector, where there is no clearly identifiable conflict situation, and where the defining characteristic of the situation is not that one man's demands or interests are forced to yield to those of another. In the second place, we must recognize that this is a rather important exclusion, because of the concept of political and social change that is presupposed. Dahl concerns himself with cases in which *decisions* are debated and made. But social change is not only a matter of the taking of a series of discrete and distinguishable decisions. Equally important is slow, non-deliberate, unforeseen and unintended change; and in *this* sort of change the influence that is exercised by *élites* or pace-setting minorities on the masses of men may be a crucial factor; here, however, we cannot begin by identifying opposing interests or assume that power is expressed in the solution of a conflict situation. At those points where, for instance, "power" and "prestige" interact, the methods of empirical analysis which may help in the study of situations of the "domination" type may be entirely useless.

But, thirdly, suppose that we *do* confine ourselves to those cases where deliberate, discrete decisions are taken. Even so, the method we are examining will secure greater empirical rigour only at the cost of a great over-simplification of social reality. One thing that Mills appears to be saying is this: that certain groups (for instance, the military, the industrialists, and the top political men) constitute the "power *élite*" in the U.S.A. because the decisions *they* make affect most deeply, and throughout a very wide "zone", the lives of all the citizens

of their country. This statement introduces all three of the dimensions I have just distinguished. But its interest for us at this point is that it brings us back to the question of *unintended* effects. I do not understand Mills to imply that all the effects of the decisions of his “power *élite*” are intended effects; it is quite intelligible to say that men whose decisions alter the lives of a great number of other men, continuously, deeply, and through a wide range of their interests and activities, are far more powerful than you and I whose decisions have effects in a very restricted “field”. Thus, it is plausible to suppose that sometimes when we attribute great power to an individual or group, we have in mind the range, the intensity, the extent of the zone of influence of the power that is exercised, but we may not think it highly relevant to consider whether the effects of decisions are intended or unintended. Political scientists and sociologists might well find it convenient to distinguish pretty sharply between power as the production (or ability to produce) *intended* effects and all other forms or senses of power (including power to produce effects that are not intended); in studies of the distribution and mechanisms of political power, it might be convenient for them to concern themselves only with the first. Still, this would be at variance with the history of the term “power”. For many important social theorists have habitually employed the concept as meaning simply power to produce effects on other men (intended or unintended); for instance, Marxist-inspired analyses of the power structure of capitalist society, with their emphasis on the power of the capitalist, the entrepreneur, and the investor, have certainly implicitly included the effect of their decisions in “determining” the fate of other men, not necessarily in intended or expected ways, in the calculation of the sum of their power. Similarly, the arguments which have been advanced in the present century in support of what is called “economic democracy”—bringing the operation of the economy within the system of democratic control—have also usually appealed as much to the assumed power of “big business” to produce *unintended* effects as to its power to impose deliberate decisions. And it seems to me that no study of the nature of power and of its political and social significance can afford to exclude this meaning from its inquiries.

VII

I remarked earlier that one problem for an empirical study of a power structure is the problem of “identification”—to recognize the qualitative characters of the power relations present in the situation we are studying. I remarked also that we shall find, in any political system or social group, a great number of qualitatively different power relations most intricately intertwined. The discussion in the last section will have reinforced these points. When we are examining the power that may be said to be enjoyed by a particular social group, we are likely to be confronted by the whole gamut of power relations. For example,

we will usually be able to discern the kind of "influence" I pointed to at the outset: the case where the presence of the conflict situation is not a crucial defining characteristic. We shall almost certainly find "influence" in the rather different sense: the power to affect the decisions or actions of others, which, however, falls short of being able to control or prescribe what those responses or decisions shall be; and this is a concept of power which is very prominent in democratic formulations, in notions of popular participation, consultation, and the like. We shall find relations which do involve conflict situations of different sorts and degrees, and sanctions of different sorts. And we shall find decisions having both intended and unintended effects. It is not easy to make the necessary discriminations; it is so difficult in fact that very often the participants themselves, the man who exercises power and the man over whom it is exercised, do not themselves know whether sanctions are being employed, or whether there is an element of what I have called "domination" in the relationship. That the quality of the relationship is often concealed from the actors themselves is often enough illustrated by interpersonal relations within the family—for instance, in the relations between husbands and wives, between parents and children: this is a commonplace with which psychoanalysts and novelists are very familiar. It is clear that the psychoanalytical theory of "internalization" or "intrajection" would introduce some very nasty problems for analysts of power. It is a still more difficult problem to identify relationships within political or social situations. Abundant examples of this difficulty can be found in discussions of democracy; political scientists do not agree, nor are they likely ever to agree, concerning the role of "domination" in democratic societies like our own, the extent to which sanctions are brought into play in maintaining the stability of democracies, the extent to which the pattern of power (or structure of "powers") depends upon the consent of the governed, the voluntary acceptance of leadership, an ingrained respect for legitimate or constituted authority, and so on. Within recent years, political scientists and sociologists have been giving some attention to the problems connected with the *measurement* of power.⁹ It appears to me, however, that a prior problem, and perhaps an even more important one, is what I call the problem of identification. At any rate it is a difficult enough task, apart from quantification, to discover what *kinds* of relationship confront us in any complex social situation; unless we can make these qualitative identifications and discriminations, we cannot begin to consider the significance of a power structure, its relation to problems about freedom and many other issues.

I want to amplify this last point a little further by returning in conclusion to the "influence" pole of the continuum. Talcott Parsons, in another article attacking Mills's book about the power *élite* of the U.S.A.,¹⁰ asserts that Mills works with a "zero sum" conception of

power: that is, that Mills assumes, or tends to assume, than an increase in power at one point within a social system implies its diminution at another. I shall not ask whether this criticism really applies in this case; nevertheless, in our ordinary talk about power it is certainly true that the assumption is often made that there is, so to speak, a finite sum of power, and that if A has become more powerful, then there is a B who has become less powerful. Yet it is easy to see that this is an assumption that cannot generally be made without considerable amplification and qualification.

Now, we can observe in many power relations that a man who enjoys power over others is endowed with the power that he has by those over whom it is exercised. One of the simplest and most familiar examples of this is the leadership situation—the situation where a group of men endow another man with power (including power over themselves) because they expect that by so doing their own power to satisfy some desire, demand, or interest they want to satisfy will be augmented. The power of the leader often survives (or continues to grow) so long as the expectations of those over whom power is exercised continue to be satisfied. Of this situation there are many variants; for instance, the power that the leader or ruler has conferred upon him by the followers or subjects may be the result of a conscious calculation of advantage, or it may come from non-rational belief or sentiment of one kind or another, such as a belief in the magical or non-natural gifts of the leader. Some instances of what Weber calls “charismatic authority” belong here.

But there are features of all the variants that are worth pointing to. First, A’s power does not flow merely from *his* exclusive possession of some power base (wealth, superior strength of knowledge, or whatever it may be); it is an aspect of the interaction between A and those over whom he has the power. Second, sanctions may be completely absent, or quite secondary. Third, and this is here the most relevant point, the power with which A is endowed need not entail what B, C and D would consider to be a significant loss of power; on the contrary, the increase of A’s power can contribute to an increase in their own power to satisfy certain of their own demands. In fact, one of the main functions of social power, one of the purposes of creating power structures and reservoirs of power, and of experimenting with possible distributions of power, is to enlarge the available volume of power—the volume of power that is available not only to the leaders or governors of the group but to all its members.

And this appears with particular clarity in relationships at the extreme end of the “influence” pole of the continuum. We sometimes say of thinkers, writers, painters or musicians that they possess unusual power; we appear to mean that they can produce effects in their work, or that they have a control over their medium, beyond the power of ordinary men—this is power simply as the “production of (intended?)

effects". Now, a painter may not possess "by nature" the power of a Picasso, or a thinker the power of a Marx or a Freud; but it is not uncommon for them to develop a power that they could not otherwise have acquired by subordinating themselves to a master, following a discipline imposed upon them, and learning to work with the other man's skill and technique, to master his style. And in politics, as in all other forms of co-operative working, there are close analogies to this particular relationship.

But if we want to argue that a man can in certain circumstances increase his own power by subordinating himself to the authority or the power of another person, we can avoid paradox only by admitting further complexities in the power relation. During the war the English, let us say, increased their own power by conferring on Churchill an unusual degree of power and a set of unprecedented "powers": thereby they may be said to have increased their power to achieve ends they were pursuing in common, the defeat of Germany. To build up their power to achieve this end, they surrendered their power to act in certain other ways or to achieve certain other ends. The essential point is that the individuals who participate in a power relation possess many different interests and motives and are engaged in different sets of activity concurrently. Moreover, each person will often give different values to his different interests and activities; at least, he may in many cases rank them in an order of importance to himself.

It is at this point that one of the dimensions I distinguished, "the zone of acceptance", becomes of some importance. It is seldom that A who is said to have power or influence over B has the same power over all of B's interests or activities. In simple interpersonal relations it often happens that A's power to control certain of B's desires or activities (even sometimes to the point of being able to prevent their expression or indulgence) is a necessary or a sufficient condition of B's being able to satisfy other desires or carry out other activities. This, of course, is one of the familiar relationships between parents and children, and between teachers and pupils; the ordinary common-sense justification of the power of parents and of teachers assumes that this does happen. The influence or control which A exercises over B within the "zone of acceptance" may be experienced by B as unalloyed frustration or domination, without any compensating satisfaction or enlargement of potency (as of course it often is by children and school pupils); or B may rank his interests, desires, &c. in such an order that he may feel that the interests which gain in potency or facility are more important to him than those that are blocked. And, although I have spoken only of cases where these judgments are made by the actors themselves, we also habitually make such judgments for other persons; just as we do not make a rule of consulting the wishes of young children when we require them to submit themselves to

educational discipline, so as political philosophers and as citizens we habitually make such judgments for other men: we do so whenever we take a position on questions of the legitimacy and illegitimacy of forms, distributions, modes of exercise, &c. of power. And, indeed, with power as with freedom, evaluations of the kind I have been referring to often affect our use or non-use of the term "power" as a proper description of concrete situations.

VIII

A survey of a few only of the different relations that may be intermingled and confused within any power situation warns us that the connections between one man's power and another's, between one form of power and another, or between power and freedom, may be extremely obscure, and their unravelling a very hazardous enterprise. One conclusion that is possibly suggested by these "Notes" is that the concept of power, for reasons implicit in this discussion, is not likely to be a fruitful concept in the explication of the "power structures" of actual societies; perhaps what is called for is a great deal of analysis in the sense of breaking up and discrimination, and the substitution of more manageable concepts for the portmanteau concept of power. I cannot pursue this question here. It is fair to say, I think, that both in ordinary discussion, and in the discussions of social scientists, there is a tendency to concentrate very heavily on certain manifestations of "power", and to ignore or minimize others. The power relations which lie towards the lower end of the scale tend to be emphasized; those lying towards the pure "influence" end tend to be played down. Furthermore, common sense does tend to assume a "zero sum" concept of power; everyday discussions (for instance, of the growth of the state's power or of the power of the bureaucracy) not only pay scant regard to the "dimensions" I have shown to be highly relevant, but also tend to assume that if there is a building up of power at one point within the system there must be a diminution at others. Again, in thinking about power as a social phenomenon, we tend to be too much obsessed with problems of distribution; and perhaps we operate with very crude notions of distribution to boot. No one would be in danger of assuming that the wealth of a society is a fixed quantity; or that the effects of a re-allocation of wealth could be calculated by simple operations of addition and subtraction. Or, again, if we happen to be interested in moral issues connected with power and its operation, it is very obvious that such well-worn assertions as Acton's "power tends to corrupt and absolute power corrupts absolutely", or Reinhold Niebuhr's theme of the persistent tension between power and morality, are not in an undissected form either illuminating or interesting. With power as with many other things, as Oakeshott has reminded us, *la vérité reste dans les nuances*.

2 | POWER IN AUSTRALIA

R. S. Parker

I

In this essay “power” is seen, not as an attribute of individuals nor as a storable commodity, but as a psychological relation between individuals or groups of people. It is a more or less stable relation where A, an individual or group, at a given time can cause B, another individual or group, or a specified number of individuals, to act in a direction desired by A, with respect to specified goals, and despite a specified degree of reluctance or resistance.¹

The concept of power is not coterminous with that of political action. On one hand, there are power relations which would not be defined as “political”. On the other hand, power is only one of the dimensions of politics. Hence, by itself, it does not provide adequate means for analysing the political process in a society. Consequently this essay does not attempt to elucidate “the power structure” of Australian society, but to see political power in Australia in its relation to the other dimensions of Australian politics.

As a framework for this, Professor Partridge has defined “the political system” as comprising a set of more or less stable, legitimate institutions whose social function is to formulate, to promulgate, and to adjust conflicts among “policies”, i.e. proposals with a degree of generality about the objectives of individuals or groups, about the distribution of resources or values among them, and about the very manner itself of adjusting such conflicts.²

This resembles David Easton’s conception, in *The Political System*, of politics as being concerned with the authoritative allocation of values in a society.³ But Easton’s discussion makes a little more explicit the place of power as a political dimension. Partridge’s definition of polity could apply equally to a market—i.e. to the field of economics as well as political science. Economics also is concerned with the competitive and often conflicting pursuit of “values”—but this conflict takes place in terms of the production and exchange of goods and

B

services, and is regulated by a price mechanism and the tensions of supply and demand. Easton presents politics as concerned with the pursuit of values by means of *power*, and its regulation by means of legitimate power, or authority, i.e. by decisions whose validity is generally accepted. (Thus the production and distribution of goods and services would become “political” if regulated by authoritative directions instead of by a price mechanism.)

I part company with Easton, however, where he speaks of the complex of political institutions that regulate power “for a whole society” as “the political system”. For this complex I would reserve the traditional term “the State”, remembering the many societies in which there is no such unified or comprehensive complex of political institutions—societies, that is, which are Stateless but which contain a number of other political systems. Such non-State political systems exist also, of course, alongside the State in those societies which have it.

I also find it more helpful to think of politics (like economics) as being concerned with the allocation of *values* rather than with the resolution of conflict about *policies*—simply because the latter is only a special case of the former. Values are anything for which there is a felt need—whether material possessions or pleasures, or intellectual or spiritual satisfactions. (The latter may include the sense of relative power itself. Power, or more strictly speaking, living on the advantageous side of a power relationship, is thus both a value and a means to the attainment of values.) Now the competitive struggle for values which demands political regulation is not confined to those regular or consistent series of actions which can be called “policies”. One could hardly call common assaults, lapses from moral rectitude, unauthorized occupation of land by “squatters” or the carrying of infectious fruit into a disease-free area, acts of policy—but they may all call for political regulation. It may be argued more plausibly that the responsive acts of political regulation, precisely because their object is generally to introduce order and regularity into the struggle for values, normally tend to take the form of “policies”; but what they regulate includes both policies and more isolated acts.

This theoretical preamble has seemed necessary in order to make clear (particularly to myself) just what I am trying to do in discussing power in Australia. Essentially, it is unrealistic to talk of “the power structure” in isolation from the other elements in the political structure—and this especially in Australia, because painful reflection suggests the thesis that *power as defined above plays an unusually restrained role in the struggle for desired values in this country*. I want to suggest three broad reasons which would help to explain this proposition, if it is true.

II

In the first place, Australia is a society comparatively blessed in the

resources, skills and organization necessary to provide a high average standard of material values for its people—relative to their expectations. I think it may be shown historically that power in various forms looms larger where the struggle for material existence is keenest.

If, for example, we consider pre-industrial societies where population pressed hard on the means of subsistence, we invariably expect to find direct power relations playing a larger part in the distribution of material welfare. There is the institutionalized domination of feudalism, in which the sanctions of political obligation, rather than market processes, enforce a distribution heavily in favour of nobles and priests. There are the various forms of quasi-political extortion practised by powerful economic minorities today in countries like Thailand or the Philippines. And there was the prevalence of simple bandits and highwaymen in Europe to the end of the eighteenth century. Comparatively speaking, high average living standards and the economic and social mobility that go with them in a country like Australia conduce, other things being equal, to a general acceptance of the economic processes of bargaining and exchange, and a reduced need for the exercise of power in arranging the allocation of material values. The readiness of a majority to accept the removal of wartime political controls over such allocation might be thought to be evidence of this.

For the moment I am postponing the question whether economic bargaining “power” is power in the sense of this paper. In particular I would ask patience of any members of the Consumers’ Association who may want to apply the foregoing reasoning about banditry to the Australia of mass advertising, hire-purchase, automobile dealers, oligopoly, monopoly and restrictive trade practices. Not only David Easton, but also many sociologists are willing to allow a distinction between economic (exchange) processes and political (power) processes. And I shall return later to the problem of the concentration of “economic power” which I believe is of first importance in Australian life—if not in Australian politics.

III

So much, at this moment, for the allocation of material values. The second reason I would assign for the inconspicuous role of power in Australian politics is the low importance ascribed to non-material values—especially those associated with religion, race, and political ideology which have been such fruitful sources of power struggles within other societies. Whether this be characterized as the healthy tolerance of a sane and prosperous people, or as the regrettable apathy of a tribe of hedonistic sun-worshippers, the Australian lack of interest in ideas and principles, so regularly lamented by our more earnest European guests, certainly reduces the zeal with which we seek to influence our fellows to our own way of thinking. Where are

our parallels to the American intensity of feeling and political activity about the negro, to French and Italian feelings and activity about Church and State, to the upheavals about policy on matters like disarmament and socialization in the British Labour Party, to the essentially nationalistic tension between Boers and Britons in South Africa?

The nearest answer might lie in the passionate anti-Communism of the Democratic Labour Party—minority offshoot of the 1954-5 split in the Australian Labour Party—and its alignment with the Roman Catholic Church in the fight for State aid to church schools. But these cases are so exceptional as to emphasize the foregoing generalization.

Other apparent exceptions to it are also, on reflection, of the kind that go to prove the rule. There is the vociferous separatism of the movements to carve new States out of the existing territories of New South Wales and Queensland. There were the displays of synthetic passion over the Labour Prime Minister's attempt in 1949 to nationalize Australia's private trading banks. There was the mushroom growth (and decay) of pseudo-ideological movements during the great depression: the charismatic appeals of New South Wales's eccentric Premier, J. T. Lang, to the economic underdog; the pretentious pledges of a Colonel Eric Campbell, "Leader" of a semi-fascist para-military organization, the "New Guard", to "protect" the State from Langism and Communism; the patriotic panic of other middle-class rallying movements such as the "All for Australia League".⁴ However, these were all comparatively short-lived phenomena; more important, they were, sociologically, never more than skin-deep—the outward and visible signs of empty pockets and pantries, but not of outraged, intransigent souls, or of deeply committed minds. A mild economic recovery, or the passage or defeat of bitterly contested legislation, has been sufficient to erase such flashes of protest from most men's memories.

It is true, but only reinforces the point, that some national policies, such as the control of immigration to preserve a "white Australia", are deliberately designed to insulate domestic politics from explosive currents like race conflict. Nor are these examples intended to give exclusive or undue stress to the domination-and-sanctions end of the "power-influence" continuum.⁵ Elsewhere, the clash of ideological values has no doubt been a prolific source of violence in power relationships. But other forms of power have been equally prominent: the struggle over disestablishment in France, I believe, in its later stages worked largely through influence on conventional political institutions. I am simply saying that in Australia the relative unimportance of conflicts over non-material values has removed a whole range of motives for the exercise of power in any form. One is reminded of T. V. Smith's thesis⁶ that conscience (that is, the drive to the pursuit of moral values in action) generates a need of power which is so imperative as to menace social stability in the absence of restraints that go "beyond conscience".

A relevant question which could only be answered empirically (and has not been) is whether power as a value-in-itself is relatively unimportant as a social motivation in Australia. To give a superficial answer, the lust for power might be held to be incompatible with easy-going materialism, and to be inhibited by the Australian community's reputed rejection of deference, status distinctions and authority, legitimate or otherwise. And yet, there is no lack of Australians who have been debited with a keen enjoyment of power for its own sake—flamboyant figures in politics and journalism flock to mind—who have not minded the accompanying limelight, and perhaps a greater number, including some notable public servants, who in conformity with the Australian ethos have been contented by “power without glory”. What may be said is that, in the Australian context, all of these men have had to be expert in the techniques of influence, competence and manipulation, rather than in the domination end of the power continuum.

IV

I come now to the third main factor which has qualified the role of power in Australian politics. This is the long-established habit, carried further, perhaps, than in any other advanced society, of institutionalizing the resolution of conflicts over the allocation of values. This predilection we share with the New Zealanders, who must be credited with the invention of our system of industrial arbitration, the prototype and prime example of our pre-eminence in transmuting power conflicts into arbitral and administrative processes. Its central feature is the attempt to remove important allocative decisions from a process of *ad hoc* bargaining or trials of strength, based on the relative power of the competing interest groups, to a system of adjudication by committees, boards, tribunals, departmental agencies, autonomous corporations and similar institutional devices.⁷

In the industrial field, compulsory arbitration by quasi-judicial tribunals replaces collective bargaining as the main means of determining the relative share of wage and salary incomes in the gross national product. In the federal and each State public service, a public service Board or Commissioner has statutory powers to determine questions of departmental organization, establishments, appointments and promotions, largely by mediation and negotiation among departments, staff associations, individual officers, and sometimes Ministers. In these ways the public service commissioners perform functions which are very differently organized in those countries that commit establishments and staffing to Treasury control under a responsible Minister. Furthermore, the public service boards themselves, particularly in matters of wage-fixing, promotions and discipline, may be regulated by way of appeal to other quasi-judicial tribunals, such as the Public Service Arbitrator and the Commonwealth Industrial Com-

mission in the federal sphere, or the Crown Employees' Appeal Board in New South Wales.

But the method is by no means confined to the personnel, organization and industrial relations field. In most Australian electoral systems, the redistribution of constituency boundaries, at intervals provided by statute, has long been entrusted to statutory commissions, generally including a responsible public servant and a judicial officer, with the declared aim of neutralizing a function so germane to the relative power and advantage of the political parties. The distribution of special federal financial largesse among the needier State governments is, by convention, determined by accepting the recommendations of a politically-independent Commonwealth Grants Commission, which, since 1933, has superseded the previous process of direct bargaining between the governments concerned. A similar function has been performed, in relation to Commonwealth grants to the States for tertiary education, since 1960, by an Australian Universities Commission.

There is a sense in which these institutions are an extension of the process by which Australia ventured first and farthest into the modern type of statutory public corporation, insulated in varying degrees from direct Ministerial responsibility, as administering authorities for all kinds of governmentally-sponsored activities, from the building and running of railways and airlines to the control of betting shops. This device has been especially popular where it was desired to protect elected governments from continuous involvement in the resolution of sharp and contentious clashes of group interest. Boards of Railways Commissioners, dating from the 1880s, were created largely to avoid two kinds of direct pressure on governments: for patronage in appointments and for influence on the directions of new line construction. In the 1920s the River Murray Commission was established not only to build conservation and irrigation works but to provide a regular medium for resolving the competing claims of three States to the waters of that river system. The wartime need for quick turn-around of shipping was met by setting up a Stevedoring Industry Commission for mediating the clashes of interest among shipping companies, stevedoring companies (where these were separate) and water-side workers. Since long before the war, the Australian Tariff Board has been holding hearings and making recommendations upon which changes in the protective tariff may be based—though this body is not so habitually heeded by governments as some of the others mentioned. The same applies to a post-war creation, the Australian Broadcasting Control Board, charged with investigating and recommending upon the allocation of licences to private broadcasting and television companies, and with policing the programme standards and minimum quotas of Australian material laid down by statute.

It is this general phenomenon which, I suggest, gives significant meaning to Alan Davies's dictum that "Australians have a character-

istic talent for bureaucracy".⁸ We have insistently sought to bureaucratize in this way the allocation of values or, as Max Weber might have put it, to routinize decisions that would otherwise register the prevailing patterns of power.

I am not here saying that all these attempts to substitute arbitral institutions for the free play of power are unique to Australia; only that they have been carried further here than in most other societies. I am not saying that they wholly succeed in neutralizing the relevant conflicts of interest or in supplanting the arbitrament of power. But I would claim that they appreciably reduce, or at any rate modify, the role of power in this society. One example may illustrate this claim, and for better support I take the exposition from the opinions on industrial arbitration of E. L. Wheelwright, who is not apt—as may be seen in this very quotation—to underestimate the role of direct power:

It is fairly obvious that organisational strength plays a part, irrespective of the system of wage determination. . . . This organisational factor is clearly of most importance when wage determination is carried on under a system of collective bargaining—because the wage bargain has aspects of a trial of strength. This factor is still of importance under a system of arbitration—there is nothing like a quick strike for getting speedier hearing, as is well known. But it is of far less importance with arbitration than collective bargaining. In fact it seems clear that one of the distinctive features of compulsory arbitration is that it greatly improves the position of the weaker sections of the community, especially those who are difficult to organise. . . .

. . . Compulsory arbitration acts as an umbrella, under which both weak and strong can expect more equality of treatment than if they remain outside the umbrella.⁹

I submit that the same reasoning would be found to apply in many other fields. Let us make all allowances for the possibility of certain diluted pressures being applied to these bureaucratic institutions, for the technical and administrative imperfections of their procedures, for the element of arbitrariness in arbitral decisions. The fact remains that, to an appreciable degree, their allocative function takes the form of independent analysis and reasoning, and to this extent displaces the trial of power that would otherwise engage the embattled interests, and, as in Wheelwright's example, would lead to a somewhat different result.

Here we may pause to note a paradox of particular interest to the sociologist. If we look for the origins of this complex of arbitral institutions, we are generally likely to find them among earlier, undisguised contests of power—the nineteenth century struggles of transported convict and immigrant master, of pardoned or released convict and free settler, of wealthy, pastoral leaseholders and small farmers given the right to "select" holdings from their lands, of grazier, and nomadic shepherd and shearer, of importer and manufacturer. A feature of these struggles in Australia, noted by many historians,¹⁰ has been their

bitter realism—the refusal of one side to attribute any good faith to the other, the absence of any traditional élite to claim impartiality, detachment, or awareness of “the public interest”, and the resulting lament of Sir Fred Eggleston: “Where are we to find in this country an independent man?”¹¹ The paradox is that it is precisely this mutual mistrust (naturally embracing the responsible leaders of government with the rest) which has generated our passion for “independent” statutory institutions—and one would expect them to create an insatiable demand for “independent men”.

The difficulty of manning these institutions is, in fact, an endemic affliction of Australian governments, its commonest alleviation a reliance on representation of interests in default of independence. But in certain spheres, the problem has resulted in heavy demands on our judiciary, while nowadays there is increasing recourse to serving and retiring senior officials. An important question is: does this peculiar addiction to value-allocating institutions concentrate in their officers, and in senior government officials generally, the relative power that otherwise would be wielded by, but dissipated among, the private interest groups? I have little doubt that the answer is a qualified “yes”—but this too anticipates a decade of empirical work. What must be added is that at least the official and judicial members of these institutions are strongly influenced by a professional ethic which tends to communicate itself to others in like office, and that the allocative decisions of people without a personal interest in the results are likely to bear a different relation to their potential power than the actions of directly interested parties.

V

I have left to the last the most obvious and the most elusive questions.

It is obvious that, in spite of all that I have said, there are firmly structured and stable power relations in Australian society that are unknown, say, among New Guinea tribesmen. The reasonable regularity of law enforcement by clearly designated officials; the innumerable hierarchies of formal authority in and out of government, with their “informal” aberrations; the capacity to mobilize the whole community for the civil and military effort of war: these do not differentiate Australia from other advanced industrial societies.

Equally obvious is the institutional influence of the Australian federal constitution in limiting the relative power of the central, national organs of many associations besides those of government itself. For reasons well displayed by Ian Campbell in the first volume of *Sydney Studies in Politics*,¹² the organization of many interest groups tends to parallel that of government, and when that happens in Australia, as in political parties, employers’, manufacturers’, commercial, farming and professional associations and in many trade unions, the centrifugal tendencies of federalism invariably show themselves. In-

stead of being concentrated at the centre, power is distributed on relatively even terms between the constituent branches and the national organ, thus weakening each organization *vis-à-vis* the government and its protagonists in the economic and political arena. Power, as usual, is diffused under federalism, and federalism tends to permeate the whole social structure in a political federation. Among the governments, no doubt, the past twenty years have seen a remarkable accretion of power to the Commonwealth in its relations with the governments of the States. But this has not meant a net increase in the power of the organs of government over private groups, except perhaps in the sense mentioned by Dr. Encel, that governments, especially that of the Commonwealth, have not been able to escape some independent responsibility for economic development and stability. To this end they have recruited some formidable official advisers whose influence on the allocation of values, though indirect, is real and increasing.¹³

Also obvious and well documented is the extraordinary and still rapidly growing concentration of economic organization in Australia. I am thinking of those elements of monopoly, oligopoly and "combinations in restraint of trade" which have angered generations of radicals, fascinated the younger economists, and now even attracted the threatening attention of a conservative federal Government.¹⁴ Coming to the more elusive part of the problem, let me try to examine briefly whether, in the sense that concerns us here, this concentrated organization also means concentrated power, and if so, of what kind.

The private sectors of the economy can, I think, be fairly sharply divided into two classes: those which have felt the need for governmental power to help them reach their goals, and those which on the whole have not been dependent on government action, though very willing to take advantage of it on occasion. This second class includes most of the fields characterized by business concentration or concerted pricing or merchandizing policies: private banking and finance, shipping, mining and steel, oil, large-scale retailing, chemicals and drugs, tobacco, motor manufacturing, brewing, and the mass media of press, radio and television. Undoubtedly the enterprises in these fields can be accused, as Professor Arndt accused them in 1957, of wielding certain kinds of power:

... power to exploit the consumer by charging exorbitant prices, power to exploit the worker, power to make enormous profits, and power to ensure, through control of the nation's finance, press and even government policies, the maintenance of a capitalist system and of the privileges of big business and its capitalist owners.¹⁵

Now, is this "power" in the sense of influencing people to do what they would not otherwise do, and how far does it really include "control over government policies"?

The answer to the first question is affirmative if the exploitation of a monopoly position through the ordinary market processes is rightly defined as exercising power in a political sense. I would have some doubts about this, since the differences in the bargaining factors determining prices in a market situation are mainly ones of degree, and I would hesitate to class all market transactions as mutual exercises of power in terms of the definition adopted here.

But power in this sense certainly does enter the situation in another way. By and large, the population allows itself to be exploited with remarkably little resistance, and this must be due at least in part to the pervasive conditioning influence of the mass media in the forms of advertising, of general propaganda, and of distortion or suppression of the truth about costs, prices and business organization. The result is that, on the whole, the citizens do not actively press for a different allocation of material values, much less for the use of governmental power to modify the economic structure itself. To the extent, then, that citizens' attitudes are shaped by business control of the media of opinion and information, the most striking advantages in the allocation of material values in Australian society are enjoyed with impunity largely as a result of using that form of power which Professor Partridge would call "manipulative".

This brings us to the second question, whether the great economic interests have the power of "control over government policies". This I very much doubt, if intended in any direct sense. Certainly, as I have said, big business has enjoyed an unusually high degree of immunity from governmental control in Australia. This is partly due to the diffusion of governmental powers under federalism, though let it be remembered that repeated appeals in constitutional referendums have never persuaded a majority of electors in a majority of States to reduce that diffusion one whit. Truly, also, business interests have often influenced Australian governments towards favourable policies: the history of the liquidation of the first Commonwealth shipping line, of New South Wales public enterprises in the 1920s and 1930s, and of the treatment of the national airlines since 1949, provides irrefutable examples of this.¹⁶

But again, are these unequivocal examples of superior power? In the kinds of cases I have quoted, the governments in office belonged to the political parties of business; those parties had been elected by majorities of the voters; and the sabotage of public assets raised no substantial public protest. The crucial question of power is: could the governments have resisted this business pressure if they wanted to? I believe they could have done so. To take a more striking example, there is little doubt that, but for the High Court's interpretation of the federal constitution, in 1949 the Chifley Government could have successfully carried through the nationalization of private banking. Nor do I think anyone would assert that the judges were in the power of

the banks. As the Government was immediately afterwards defeated at a general election, the Court's decision seemed consonant with the overwhelming opinion of the electorate; and if that opinion was influenced by manipulation, it corroborates the view that this is the significant form of power in the field I am discussing. It is not irrelevant to remark, moreover, that in general the "independent" business interests are not concerned to exert positive power to induce governments to do things. What they want is to be left alone.¹⁷ In this respect, they do not effectively resist minor government interference in the form of taxation or the regulatory banking measures of 1945, most of which have been preserved by the present business government. If these groups have not been subjected to more radical measures, it is because of constitutional restraints and the general acceptance of their status by public opinion.

The probability that bank nationalization could have been enforced, on the one hand, and the acceptance of constitutional restraints, on the other, are both symptoms of the high degree of legitimacy attributed in our society to duly enacted law, in almost all fields except drinking and gambling. This aura of legitimacy is relevant in considering the power mobilized by the second main class of economic interests I have mentioned—those dependent for security and welfare on governmental organization. Here again the phenomenon itself is familiarly known and often described. A succession of organized interest groups—trade unions, sugar and butter producers, wheat farmers, ex-servicemen, manufacturers, the aged, and so on—have in turn, according to the political party with a balance of power for the time being, contrived to build into the fabric of legislation a series of schemes—industrial arbitration, marketing boards, stabilization plans, bounties, home consumption prices, preference in employment, tariff protection, and pensions—to guarantee them some secure share of available values.

Now since these groups have turned to government precisely because of their deficiency in market strength, and yet have been able to influence the allocation of values to some extent in their own favour, the question which naturally arises is: what form of power have they exercised? The answer is, the power of political organization. In describing aspirations, Professor Hancock may rightly have said that, "to the Australian, the State means collective power at the service of individualistic 'rights'".¹⁸ But in accounting for achievement, we must turn to André Siegfried's phrase about the New Zealand Prime Minister: "If you are an *influential* elector he can refuse you nothing."¹⁹ In this context an influential elector is a member of a group that can muster or withhold votes where the Government needs them most—and the most effective of such groups are those that can form or sway political parties, help to win elections or organize a persuasive lobby. This is the kind of power wielded by those who want positive State action, and its history suggests that for this purpose in

Australia, direct access to legislative institutions is more important than intrinsic economic strength. And if we seek to account for the "collective power" thus generated, it is hard to find another answer than in that acceptance of the legitimacy of enacted law, and of the administrative action that flows from it, to which I have already referred. And note finally that the kind of government action that Australians normally prefer to invoke is not the direct exercise of restraining power, but, characteristically, the distribution of benefits through re-distribution of income, and the mediation of conflicts between competing social groups.

VI

I have emphasized that this paper offers a thesis rather than an analysis, and it passes over many points that have been adequately made in other essays on the subject. I conclude by summarizing the thesis as briefly as possible.

It began with some conventional observations on the nature of power, defined some working concepts—"politics" and "polity", "values," "political system"—and undertook, not to elucidate the power structure of Australian society, but to try to relate power to the other dimensions of Australian politics, and to identify its characteristic forms and its relative importance in this society. The argument then ran as follows.

The direct exercise of political power plays a comparatively limited part in Australia, for three reasons—the high material prosperity, the lack of sharp ideological differences, and the well-developed structure of institutions for resolving by mediation, rather than power, the usual conflicts over the allocation of values. The third factor tends to confer important powers on judicial and administrative officials, but they rarely have a direct interest in the allocative results of their exercise of these powers.

Despite these limitations on the role of power in allocating values, there are certain firm and stable power relationships—in administrative hierarchies public and private, in the general reliability of law enforcement, and in the latent power of mobilization for war and other emergencies. On the other hand, the effect of federalism is to stiffen the odds against the central organs within all kinds of nationwide organizations besides the set of seven governments, as well as to limit severely the areas in which the governments can exercise power over private groups, especially in the economic field.

Private groups in that field fall into two classes. In the first, business organization is highly concentrated, the resulting monopoly conditions confer great market strength, the groups need little help from government and desire maximum freedom from control. However, most citizens accept this situation, so the only form of power needed to maintain it is the manipulation of public opinion. That these groups

do not enjoy "power over governments" is suggested by the fact that minor forms of regulation of their activities are enforced, and the same could be predicted of quite drastic acts of curtailment. But federalism and public opinion, no doubt partly influenced by manipulation through the mass media, combine to deter most governments from attempting drastic reforms.

The second class of private groups, lacking market strength, have secured various forms of economic protection from governments by organizing electoral power and, through that, voting power in the legislatures. The re-allocation of values for their benefit can be enforced simply by legislation because of the society's widespread acceptance of legitimate authority.

So much for the argument. Its theme is the nature of the connections between the allocation of values and the pattern of power relations in Australia, and its conclusion is that the relation is by no means symmetrical. To develop the argument into an analysis it would be necessary to examine the conditions of change in each of these variables. This has been neglected partly through obsession with the apparent stability of our patterns. Perhaps that is a legacy of Hancock's emphasis in his *Australia* (1930) on the domination of Australian politics by a number of "settled policies" (industrial arbitration, protection, "white Australia") and by a stable structure of political parties (parties of "initiative" and of "resistance"). At any rate, the picture is reflected in the more self-conscious studies of power in this country which have appeared since then.²⁰ Although parts of the picture had begun to be challenged by Henry Mayer and others towards the end of the 1950s,²¹ it is not so much the composition of that picture which is questioned here, as its scope. To the extent that it is a true picture—that it depicts a period of relative stability in the distribution of power and welfare in Australia—it cannot contain adequate material for explanatory analysis, which depends substantially on the measurement of relative change in important variables. For this it will be necessary to scan longer perspectives of Australian history, and to do so not only with the empathetic eye of the historian, but also with the analytical instruments of dynamic sociology. Unless we can identify the seeds of change and predict their likely fruit, social science must remain an irresponsible commentary on the ineluctable past.

3 | THE CONCEPT OF THE STATE | IN AUSTRALIAN POLITICS

S. Encel

Political science in Australia is of recent growth, and political scientists are only now beginning to produce theories about the political system which bear the recognizable imprint of their own discipline. A list of works published in 1950 underlined the junior status of political science as compared with law, history and economics.¹ An important result has been the weighting of interest in favour of topics such as federalism, the history of the labour movement, and the economic functions of the State, and the accompanying tendency to favour one type of explanation of political phenomena in preference to others. It is natural that lawyers should regard the Engineers' Case, the Uniform Tax Case, or the vicissitudes of section 92 as the major events of Australian political history. Historians, looking for a prime mover, are naturally susceptible to historical explanations, in particular to Marxist historicism, whose influence is partly responsible for the picture of a dialectical relation between the Labor Party and the "parties of resistance", carrying on in the parliamentary and electoral sphere the underlying war of the masses against the classes. With its fine dramatic sweep, this theory is unfortunately liable to encourage somewhat desperate attempts to impart an ideological tone to our politics, and it has undoubtedly stimulated efforts to find a golden age in the 1880s or 1890s when labour was indisputably and unambiguously socialist. What has happened once can, presumably, happen again.

The economists, detached from these heroic activities, have in their turn been given to analysing the defective economics of governmental adventures into business, without bothering much about the ineluctable political forces behind them.

From these rather disparate sources there does emerge a pattern which may be regarded as the received version of Australian politics. It pictures the state in Australia as an institution whose inherent tendency is interventionism in economic, social and cultural matters. The progress of this intervention is hindered by a fragmented constitu-

tional structure and by the resistance, which is however only effectual in the short term, of the "residual" or "resistance" parties. The character of this state was determined during the formative period of Australian politics between 1890 and 1914 as the result of the emergence of the Australian Labor Party, which throughout its history has been the lodestar or positive pole of Australian politics, and important extensions of the frontiers of intervention have coincided with periods of Labor rule.

It is true that one or two awkward aspects of Australian politics do not quite conform to this image. For instance, the Country Party does not fit into it, any more than the peasants have ever been satisfactorily accommodated into the orthodox Marxist scheme. The usual method of disposing of this problem is to speak harshly of the Country Party, and to describe it as just another pressure group, adding even more than the usual pejorative overtones to that hard-worked expression. The interventionist policies of the Liberal Party in South Australia, on the other hand, may be dealt with by mysterious references to the Nonconformist conscience and to special circumstances such as the unparalleled reign of Sir Thomas Playford. Finally, there is the undeniable fact that the Labor Party has been in office for long periods in the states without any significant advances in the frontiers of government intervention. This problem is sometimes disposed of by treating it as a subject that should not be mentioned in polite society.

I have implied that the accepted stereotype, if not full of holes, at least has a few sizeable ones, and it is therefore not surprising that political scientists, since they have begun to write regularly and professionally about Australian politics, should have levelled severe criticism at one aspect or another of the received version. Henry Mayer has thrown cold water on the "initiative-resistance" motif in the study of political parties, whose intellectual pedigree, he suggests, is not above suspicion. "The initiative-resistance theme," he maintains, gives a misleading account because it "usually treats both sides as self-sufficient and pretty isolated entities. . . . The analysis of Australian parties in terms of interest behind them breaks off when it comes to the crucial question of the context of party policy."²

Mayer's remarks strengthen the innate suspicion that political parties have little to do with the formulation of public policy. Alan Davies, for instance, has recently sketched a political dialectic which derives not from Marx but from Weber. In the opening paragraph of his book *Australian Democracy* he limns the features of his first protagonist, the bureaucratic state. "The characteristic talent of Australians is not for improvisation, nor even for republican manners," he writes, "it is for bureaucracy." It is no use for the spiritual descendants of Ned Kelly to be shamefaced about this, to feel, as Mr. Davies piquantly suggests, that "being a good bureaucrat is a bit like being a good forger", because in practice the talent is "exercised on a massive

scale . . . even in bodies as superficially unwelcoming as universities, free churches and voluntary associations of all kinds".³

Against this apparatus of bureaucratic rationality is poised the irrational force of the party system (though not even Mr. Davies can endow the parties with the charismatic attributes demanded by a strictly Weberian analysis). The main interest of political parties, in his view, is "their anti-bureaucratic role in the political system. . . . There are, of course, other groups and institutions of an anti-bureaucratic set, but none rivalling the parties in sheer bravado."⁴

Mr. Davies' work has qualities which, transcending mere science, give a poetic touch to apparently unrewarding material. Pleasure must not, nevertheless, be allowed to distract one from the sterner task of correction. Mr. Davies makes, in my opinion, two important theoretical errors. It is rather *simpliste*, for example, to equate "state action" with "bureaucracy", something which Weber would never have done. Certainly Australians have an irrepressible tendency to demand state action on a bewildering variety of matters, but no one familiar with the workings of the administrative system would describe us as having a "gift for bureaucracy". Secondly, the antithesis between "rational" bureaucracy and "irrational" parties is at least debatable, if not downright question-begging. The interpretation of "rationality" as the application of intellectual analysis is, moreover, not the only possible one—witness Locke and Bentham. Mr. Davies accepts Mayer's criticism of the "initiative-resistance" theme, and his dialectic is a more satisfying one, but he has not emancipated himself from the traditional theory of the clash between the "national interest" as pursued by state institutions and "selfish interests" as represented by special interest groups working through or alongside the parties. As I shall endeavour to show, this schema is as misleading, in its way, as the established view of the party system.

J. D. B. Miller's recent book attempts to avoid the abusive overtones of the term "pressure group" by the use of "syndicate", meaning an organization of "people whose economic and vocational interests have induced them to band together for action to their common advantage, such as trade unions, associations of manufacturers and traders, farmers' and graziers' unions—which exercise continual influence over party policy".⁵ It is the universally accepted function of Australian government as developmental and protective (in the sense of "protective tariff" rather than "protective custody"), which accounts for the special importance and pervasiveness of such organized groups. The task of government is simultaneously to develop the country and to serve the interests of "syndical" groups whose position will benefit from direct governmental action. In consequence, the structure of government is decentralized to give these groups greater freedom of manoeuvre, both through the federal constitution and the establishment

of numerous "organs of syndical satisfaction" like marketing boards and arbitration tribunals.

Party differences, on this analysis, are to be explained not in terms of "intervention" versus "resistance", but of different forms of intervention slanted in the interests of different syndicates. For this reason the "Liberal" party has little affinity with traditional liberalism, the Country Party sees nothing strange in its demands for "agrarian socialism", and the Labor party is less the party of initiative than the one which is most consistently eager to exploit settled interventionist policies. It is arguable, Miller contends, "whether this has given it any claim to represent the most dynamic elements in Australian politics".⁶

It will be noticed that one important point in common between these three writers is their concern, whether implicitly as in the case of Mayer, or explicitly and directly as in the case of Davies and Miller, with the nature of the state and its relation to society. It is hardly surprising that political scientists should return to the original pre-occupation of all political inquiry, contained as it is in the very name of the subject, and certainly less surprising in view of the tremendous importance of state action in this country. For is this not

The generation of that Great Leviathan, or rather . . . of that Mortall God, to which we owe under the Immortall God our peace and defence . . . and in him consisteth the Essence of the Commonwealth; which (to define it) is One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves every one the Author.⁷

The thesis which I shall assert in this paper is that an adequate theoretical picture of Australian politics requires some valid notions about the nature of the state which can be shown to be generally held, and are therefore likely to underlie the ideas and activities of political parties. It is easy to imagine that no such thing as political philosophy exists in Australia, but in fact political discussion at any level, no matter how simple, requires some intelligible view of politics and society. This view, no matter how primitive or debased in form, is essential to the use of any kind of political rhetoric, and rhetoric is inseparable from the conduct of politics at any time, least of all the kind of politics which operates through representative government. If this philosophy is difficult to discover, the reason is surely not that it does not exist, but rather that it is taken so much for granted as never to be discussed. We shall find that, in the formative period of Australian politics which I have mentioned, it was spoken of freely enough to be quoted at length. Another sign of its existence is the divergence of views about its nature, views whose sources can be found in the most respectable philosophic quarters.

In his now classic book of 30 years ago, Sir Keith Hancock found the driving force in Australian politics to be an egalitarianism which

is, in its turn, only a local version of nineteenth century British individualism.

The whole of Australian history lies within the period which succeeded the French Revolution and the Industrial Revolution, a period filled with a deafening clamour for rights and a few shrill protests about duties. In Australia the assertion of rights has been less a matter of theory than of instinct; nor has this instinct been peculiar to any one class.

To the Australian, the State means collective power at the service of individualistic "rights". Therefore he sees no opposition between his individualism and his reliance upon Government. . . .⁸

In consequence, "Australian democracy has come to look upon the State as a vast public utility, whose duty it is to provide the greatest happiness for the greatest number."⁹ Because of the relative unimportance of old-world social groupings, of those "little platoons of life" to which Burke ascribed the formation of our characters, the all-embracing collectivity of the state becomes correspondingly more important. Every citizen, says Hancock, is a subject "who claims his rights—the right to work, the right to fair and reasonable conditions of living, the right to be happy—from the State and through the State".¹⁰

The stress on égalitarianism as a driving force provides an intellectual basis for Hancock's use of the "initiative-resistance" theme in relation to party politics. Labor, being the party of intervention and of égalitarianism, is clearly the party of initiative. Unfortunately, Hancock does not give a very detailed or convincing picture of his "vast public utility" and his contribution to the "initiative-resistance" myth is much more important. It is not surprising that his account should be unsatisfactory, because it is based very heavily on the work of Eggleston, whose ambivalence on the subject is not hard to demonstrate.¹¹ Both Hancock and Eggleston, though they are inclined to equate "state intervention" with "socialism", are embarrassed by their awareness that socialism, if it means anything, means a great deal more than this.¹² Eggleston says, for instance, that what he calls "State Socialism"

. . . is not political socialism in the Marxian sense; it has no theoretical basis; it is simply the result of the desires and ideas of average men who see difficulties in front of them, are accustomed to the idea of State action, and ask the State to assist. . . .¹³

Similarly, Hancock soon finds the term inapplicable to his subject matter.

. . . the Australian tendency, as we have seen, . . . is to employ collective power to foster interests which are primarily individual. "This is my sort of socialism," an Australian Prime Minister once said; but it is not the socialism which realistic people advocate nowadays in Europe. It is something more primitive. One thinks of Wentworth's description of Australian Governments

—“indulgent nursing fathers”. Perhaps it is a fraud to assert that there is such a thing as Australian socialism. It would be truer to speak of Australian paternalism.¹⁴

State intervention in economic and social affairs had advanced almost uninterruptedly, irrespective of the party in power, and in recent years, the Liberal Party has gone so far as to give itself credit for experimentation in new forms of state action. A recent statement of Liberal policy manifests a view on the proper relation between public and private action which hardly differs from the as yet unrealized aims of British and European socialist parties.

. . . The Liberal policy leans toward private enterprise, but Liberals believe that private enterprise should function within a government framework and that certain public utilities—for example, railways, telephones, heat, and light—are in some cases best operated as government enterprises. As R. G. Menzies has said, an elector need not be a Socialist to believe that the state should run the railways or the tramways or some big source of electrical power.¹⁵

There is, however, nothing new in this claim of being first in the field. During the famous Reid-Holman debate on socialism two generations ago, Reid took pride in pointing out the achievements of his ministry (1894-9) in extending state activity into spheres such as the construction of public works by day labour—an action, be it noted, which was widely condemned at the time as a step towards socialism.¹⁶ In 1933, Holman was able to defend state enterprise on the grounds of its non-partisan character. When the Stevens government proposed to sell the state undertakings which had been set up during Holman’s tenure of office in the first Labor government in N.S.W., he protested, pointing out that there was no question of political principle involved, and that the enterprise had had “the approval and support of other governments of every shade of political opinion during a period amounting to 22 years”.¹⁷

It is not, I think, possible to make a consistent intellectual case which includes *both* the initiative-resistance theory of the party system *and* the view that interventionism is a policy favoured by all groups. Nor is it possible to argue, as Eggleston does, in favour of the social purposes to be served by state intervention and then to attack particular interest groups for advancing their social and economic position through the use of state machinery. Eggleston admits that “development” is a political aim, but then objects to the fact that “under political control a public utility is expected to serve ends beyond its actual economic purpose”. The farmers are to blame for manipulating railway charges, and Labor is equally to blame for behaving, not as ethical socialists who are concerned with income redistribution, but as the “opportunistic representative of a unionist party machine without any thought of ultimate economic interest”.¹⁸

Eggleston finds parallel difficulties in describing the "Liberal way" because he cannot help observing the manipulation of public utilities in the interest of the economic groups supporting what he calls the "residual party". He recognizes that the end of state activity should be social justice, but boggles at the practical implications. Perhaps this is what he meant by describing himself as a *very* Fabian socialist.¹⁹

Hancock shares Eggleston's indignation about the predatory behaviour of selfish groups, and expresses himself forcibly on the subject:

. . . Australian democracy has deliberately resolved that it will have no over-mighty subjects. But, in its fear and hatred of the strong, it has bared its walls to the destructive vandalism of the weak. Swarms of petty appetites attack the great common services for which the Government has made itself responsible. . . . Since the railways are under no necessity to square their ledger, they become an instrument in the hands of politicians for squaring the electors.²⁰

However, continues Hancock, the government is unable to cut its losses because the vested interests created by state intervention will resist such steps ferociously. The final crisis is, consequently, all the worse: "The wretched government has so many scraggy chickens, and when they come home to roost they all seem to come at the same time."

Hancock's indignation, though undoubtedly merited, oversimplifies the situation. Liberal thinkers as far back as Bentham have been prone to consider interest groups as a sinister influence on the proper relation between the individual and the state, and the suspicion has lingered on well into the twentieth century. In America, on the other hand, ever since the publication of Bentley's *The Process of Government*, group theories of politics have attracted an increasing amount of attention among political scientists, particularly in the last 25 years. David Truman sums up the change in attitude by observing:

For all but those who see in the growth of new groups the evil ways of individual men, it is obvious that the trend towards an increasing diversity of groups functionally attached to the institutions of government is the reflection of the characteristics and needs . . . of a complex society.²¹

It is precisely this concept of functional attachment which Miller is employing when he speaks of "organs of syndical satisfaction", but it can be extended to the whole range of government activities in the economic and social spheres.

Interpretation of the role of the state has been affected for many years by the very common view that there is a watershed in economic history called "the end of *laissez-faire*".²² Historical writing was, until a generation ago, oriented towards the idea of a "positive state" which emerged towards the close of the nineteenth century, Dicey's *Law and Opinion in England* being one of the classics of this school. In Australia, the coincidence of this period with the rise of the Labor Party

makes it only a short step to believe that the latter was mainly responsible for the former. *Post hoc, ergo propter hoc*. More recent historical writing, especially as the result of attention to administrative history, has tended to refute the theory of a watershed and to stress the unbroken growth of state action since the early years of industrialization.²³ In Australia, recent research has underlined the steady expansion of state intervention from the gold rushes onwards, and suggests that it was a decisive factor in the economy even during the period of the "pastoral ascendancy", when state action, particularly in regard to the formation of capital, was at least as influential as the export of wool. A great deal of interesting research in this field has been carried out during the past ten years by Mr. Noel Butlin, who observes in his latest study that "contemporaries tended to be unduly conscious of government intervention in the nineteenth century, and later historians have gone in the opposite direction in virtually ignoring it".²⁴

Butlin suggests that the whole latter half of the nineteenth century was characterized by a partnership between public and private institutions, with the government playing a particularly important role in regard to the formation of capital, which is always difficult to create in a colonial economy. "The common pattern", he says, was one of "positive government intervention with the central feature of large scale outlays for capital formation".²⁵ It would be interesting, he observes, to make a study of administrative history in this period and he asserts that this would demonstrate that "the behaviour of government has been grossly under-estimated and the governmental contribution to economic growth has been seriously misinterpreted".²⁶

According to these studies, government intervention was responsible for about one half of all capital formation in the latter part of the nineteenth century, and the pastoral ascendancy itself depended heavily on state action. Government ownership of railways was a key factor, and it was the result not only of the unprofitability of private operation, but also of deliberate policy. The "partnership of private and government institutions" developed early as an "*ad hoc* solution to the problem of developing local resources in the face of considerable physical difficulties".²⁷ This development took place against prevailing doctrinaire attitudes, such as those expressed by an official inquiry which, noting that expenditure on "extraordinary" matters such as public works and social services was double the amount spent on "ordinary" functions of government, regarded this as "a necessary incident of the imperfect stage of development that pertains to a very young country", whereas "private enterprise or local exertion" would be the agents in more advanced countries.²⁸

The administrative history of New South Wales also shows the importance of government employment in the economy. Numbers on the government payroll rose from 1,077 in 1856, to 12,213 in 1886, and 34,000 in 1894. The population of the colony had meanwhile grown

from 270,000 in 1856 to 958,000 in 1886—that is, the size of the public service had grown three times as fast as the population.²⁹

In these circumstances, the crash of the 1890s did not so much generate the demand for large-scale government intervention as it underlined the extent to which previous prosperity had depended on government capital expenditure. The result, declares Butlin, was a change in the nature rather than the scope of government policy, and it would be “meaningless to attempt a judgment as to whether government intervention increased or declined”.³⁰

The character of the situation, where a whole range of interest groups were pressing the government for action, was well understood by contemporary observers, who were less prone than many of their successors to regard Australia (and New Zealand, where developments were parallel) as social laboratories. Rather, they emphasized the intensely material character of the politically important forces which were at work, and the derivative nature of the ideas put into practice as a result of this pressure. Both Coghlan and William Pember Reeves, for instance, take pains to point out the intellectual antecedents—mostly British—of the important “state experiments” of the period. Similarly, the two Frenchmen—Albert Métin and André Siegfried—who visited Australasia at the time, were quick to seize on this point, and to argue that the only local influence of importance was that of material interest, which was concerned not with the extension of state action as a general principle, but only with specific extensions to favour the interests of particular groups.

One could say, rather brutally, that the struggle between the supporters and the opponents of labor legislation is concerned almost entirely with material questions. On either side, the poverty of ideas astonishes those who are accustomed to European polemics. The employers express an intransigent opposition based on the defence of their profits; there are no arguments, but only a declaration of war. The publicists who uphold the capitalist cause restrict themselves to practical matters, and reveal that they are on unfamiliar ground as soon as they venture upon intellectual questions.³¹

Métin goes on to suggest that a comprehensive programme along socialist lines would be regarded by the labour movement as a positive hindrance. In the labour movement, he observes

. . . theoretical arguments are no better, or rather they do not exist; they are ignored or avoided. Socialism, whose philosophy appeals to many European reformers, does not attract the Australasian workers and actually disturbs them by the very breadth of its ideas. When I asked a Labor man to outline his programme, he replied: “My programme! Ten Bob a Day!” . . . The workers of the antipodes have such a narrow conception of their interests and pursue them so conscientiously that they are afraid of anything which might make them appear less narrow.³²

Consequently, he concludes, one should not be misled by class-conscious postures assumed by the Labor Party. "In appearance, they [the Labor parties] are what we would call a *class party*, carrying on a struggle against the bourgeoisie. In reality, they include employers and salaried workers and are concerned simply with obtaining good working conditions in the world as it is."³³

A few years later, André Siegfried, on one of his early globe-trotting expeditions in search of national character, described a similar situation in New Zealand.

Up to our day, or nearly so, England has been regarded as the stronghold of doctrinaire individualism, and the English as a people of initiative, whose strength is in their self-reliance. The second proposition has remained correct, but the first is rapidly becoming untrue, for every day the English show themselves prepared to accept some new intervention of the public authority, and, under the compulsion of self-interest, to sacrifice some part of their liberty. For long the colonials have led the way along this path, and it is a curious spectacle to see the sons of the men of the Manchester School becoming the most stalwart disciples of State intervention. . . .³⁴

This simplicity of approach is facilitated by the fact that in a society like that of New Zealand the government does not appear strange or remote.

Their land is small, the Government is close at hand; it seems that one has only to stretch out one's hand to grasp it, and to dictate to it laws and regulations. With us the State always remains a distant and rather mysterious institution, which excludes all idea of personality. We laugh at the story which tells of the misadventures of the citizen who wanted to see the State. In New Zealand, nothing is easier. It is enough to find the Prime Minister.³⁵

Both Métin and Siegfried were concerned to distinguish this pragmatic, *ad hoc* interventionism from the doctrinaire socialism with which they were familiar, and Métin, throughout his book, is at pains to point out that ideological statements made by men like Reeves are not typical of the common view. He remarks:

The development of the public service would tempt one to believe that it represents the growth of state socialism, and this view might seem to be confirmed by a profession of faith made by Mr. W. P. Reeves at New Plymouth on March 25th, 1895: "The more the state does for the citizen," declared Mr. Reeves, "the more it fulfils its purpose. . . . The functions of the state should be extended as much as possible. . . . True democracy consists in the extension of state activity."³⁶

A contemporary example of a similar viewpoint expressed by an Australian can be found in one of Holman's speeches during the Reid-Holman debate, when he said:

We regard the State not as some malign power hostile and foreign to ourselves, outside our control and no part of our organized existence, but we recognize in the State, we recognize in the Government merely a committee to which is delegated the powers of the community . . . only by the powers of the State can the workers hope to work out their emancipation from the bonds which private property is able to impose on them today.⁸⁷

A more recent writer on New Zealand, J. B. Condliffe, shares the views of his predecessors; his favourite term for the characteristic outlook of the period is "opportunism". He remarks:

The widening of State functions is due primarily to colonial opportunism and freedom from theories. It has little to do with Socialism. Reeves's phrase, "colonial governmentalism", is a truer description of New Zealand practice than "State Socialism" or Métin's "socialisme sans doctrines". It is "étatisme" rather than Socialism.⁸⁸

The image of the state which has, I hope, emerged from the foregoing discussion is one that relies upon almost the simplest possible species of utilitarianism. Primitive Benthamism (Disraeli's "screw-and-lever philosophy") has triumphed in Australia in a manner that would be inconceivable in Bentham's native land. We may go to that reformed utilitarian, John Stuart Mill, for a description of this theory as applied to politics.

By some minds, government is conceived as strictly a practical art, giving rise to no questions but those of means and an end. Forms of government are assimilated to any other expedients for the attainment of human objects. They are regarded as wholly an affair of invention and contrivance. Being made by man, it is assumed that man has the choice either to make them or not, and how or on what pattern they shall be made. Government, according to this conception, is a problem, to be worked like any other question of business . . . the minds of those who adopt this view of political philosophy look upon a constitution in the same light (difference of scale being allowed for) as they would upon a steam-plough, or a threshing machine.⁸⁹

A state constructed along these lines is not, in any philosophic sense, related to the pursuit of the good life or the realization of the general will. It is a machine, or perhaps a collection of pieces of machinery, available for manipulation by sufficiently powerful interested groups or syndicates.⁴⁰ Mill describes an alternative conception, which is clearly the "organic" as opposed to the "mechanical" theory of government. On this opposing view, says Mill, the science of government is regarded as a branch of natural history and the state as something having grown organically out of society. Mill's description reminds us, not unnaturally, of the language of Burkean conservatives down to and including Oakeshott. Mill himself (characteristically) argues that neither of these views is wholly correct, but that the truth probably lies somewhere in between.

THE PROBLEM OF APPLICATION

I have attempted, in this paper, to show that there is an operative concept⁴¹ of the state which can be observed at work in Australian politics, both through the expression of ideas about it and indirectly, as manifested in the actual conduct of affairs. It now remains to find a form of words in which to express this concept accurately, dangerous as this attempt may be in the face of modern linguistic philosophy. I would say, then, that the image of the state that emerges from the foregoing discussion is of a body which, to paraphrase one of the most famous of all definitions, acts as the administrative agency of the masses.

That is to say, it is a body where the organs of government and their concomitant institutions, like the party system, exist not to frame national policy but to execute the expressed demands of the community as formulated in practice by organized bodies claiming to interpret the general interest correctly. It exists in a social context where group conflicts are only to a limited extent the result of clashes between social classes, so that party conflicts are less important than disagreements between extra-party interest groups. (This is, of course, on the assumption that class conflicts give the real bite to party strife.) This state, further, operates in an economic context where the *social* purpose of industrial production is of comparable importance to its economic purpose; tension between the two invites continual state action to resolve it.

The concept is one of a state which is committed rather than neutral. To mitigate the effects of commitment, state intervention, whether of a regulatory or operating character, tends to be detached as much as possible from the traditional state machine and dealt with in either a quasi-judicial or "non-political" manner, or to be diffused among a number of organs with claims to sovereignty in their own sphere.

This formulation expresses, I believe, the common factor of agreement between the views I have discussed, and should also help to clarify both the similarities and differences between Australia and other countries with democratic institutions. Its value, if any, should be found in its resolution of puzzles about the party system and the administrative system such as those already described, and its application to these questions may now be briefly sketched. We may consider, first of all, some aspects of the party system.

The emergence of the Country Party is clearly linked with the adoption of three major forms of intervention as the settled policy of the country at the turn of the century—state fixation of wages, protection, and closer settlement. Discussions of the Country Party often do not perceive with sufficient clarity the connection between the character of the party and the character of its midwife, the state. Refusals to

classify it as a “proper” political party are based on a failure to recognize that, in the Australian political system, the function of a party is not to make policy but to gain control of the organs of government and make them work in the interest of the “syndicates” with which it is associated. The difference between the Country Party and the other parties is chiefly that the former has taken this situation to its logical extremity and does not even manifest any particular interest in the role of government outside its own immediate purposes.

The problem of differences between the Labor and Liberal parties may also become more intelligible in this light. It is my own view that too much energy is devoted to the demonstration that these two parties do not differ on any major policy issues. Once we regard the parties as convenient devices for forming a government rather than as agencies for formulating basic policies, the question becomes almost unimportant. The significance of differences in party policy becomes, then, that of the limiting case; nor do we need to employ the dubious concept of the “floating vote” to account for similarities in policy. This does not mean that there is no such thing as a political dialogue between the parties, but that it is confined within the fairly narrow limits of an interventionist rhetoric in which the main Liberal theme is “national development”, the Labor Party is concerned with the woes of the underdog, and the Country Party beats the rather irrelevant drum of sentimental patriotism. Of course, these themes are not mutually exclusive, either in rhetoric or in policy.

I have implied, in this, that the *égalitarianism* of the Labor movement is largely rhetorical.⁴² This does not mean it is fictitious, but that it has little value as an explanatory principle in either politics or sociology. I suspect that when an Australian school of sociology finally makes its appearance, one of its early tasks will be to debunk the practical, as distinct from the ideological importance of *égalitarianism* in Australian life. The narrow concentration of vocational groups on their immediate interests is, for example, just as plausible an explanation for the Australian suspicion of intellectuals as any widespread sentiment in favour of equality. In the field of social policy, where one might expect that the effects of *égalitarianism* would be most marked, a country such as New Zealand has a far stronger claim than Australia. So has Britain in recent years, especially in regard to health, education, and the employment of women.

Some light may also be shed on the famous problem as to why there is no “real” conservative party in Australia. There has not, I believe, been any significant difference since the first world war between the policies and outlook of the British Conservative Party and its Australian counterpart, which has passed through three incarnations in that period. What difference there is arises from the fact that until 1914 it was still possible for a British conservative to think in the terms formulated by Burke. Such notions only make sense for a per-

son who can believe that he is not dependent on state or collective action for his position in society. Since 1914, and more particularly since 1929, the number of people who are in a case to believe this has shrunk rapidly, and philosophic conservatism has become attenuated to a rhetoric which is now used mainly by political publicists and by some professors, both in Britain and latterly in the United States. The themes of this rhetoric hardly differ from Burke's—the warning against rationality in politics, the stress on understanding history, the primacy of society over the individual, and the organic character of the state.⁴³ In Australia, where the universal demand for intervention destroys the basis of these quasi-mystical propositions, the use of these terms is characteristic not of the Liberal Party, but of certain isolated groups like the “pure merinos” of the squattocracy, generals, prelates, and judges.

It is also apparent why an analysis of Australian politics along orthodox Marxist lines makes little sense. The state I have described bears little resemblance to an executive committee of the ruling class. Its functions are administrative rather than executive, and segmental rather than comprehensive. Only in times of acute social crisis does an analysis in terms of class conflict become plausible, and the state appear to be fashioned in the Marxian image. Such years were those between 1916 and 1920, or from 1929 to 1932. At such times, the A.L.P. assumes a posture of initiative and the other parties the posture of resistance or even repression, the latter enhanced by the individual behaviour of men like W. M. Hughes and Mr. Justice Pring at the earlier date, or of Sir Robert Gibson, Judge Lukin and Sir Philip Game on the later occasion. Nor is there any reason to suppose that a similar situation could not arise again.

If we turn now to the nature of the administrative system, we find ourselves again in Marxian territory. One of the difficulties of applying orthodox Marxism to modern industrial communities stems from the liberal fallacy, shared by Marx with the rest of his generation, that the state has no business to be in business. Recent economic and political analyses of the problems of “underdeveloped” economies, which lay great stress on the positive role of the state, are certainly heterodox in Marxist terms,⁴⁴ although Marx himself did throw out hints about the “superstructure” having its own effect on the economic “foundations”. A valid analysis of the connection between economy, society, and politics in Australia is, in my view, only possible if the institutions of the state are themselves regarded as active parts of the socio-economic pattern and not only as its “epiphenomena”. A. F. Davies' book recognizes this but has not, I think, adequately digested its implications, one of which is that it is misleading to use the term “bureaucracy” in its original sense of a centralized, rationalized and

hierarchical power structure. In Australia, large-scale government intervention, at least at the state level, has given rise rather to a collection of more or less self-contained administrative satrapies which are not infrequently engaged in disputes whose basis is demonstrably "irrational". These segmented government machines are themselves the reflection of a segmented society, to which the applicability of Miller's notion of "syndicates" is obvious. The activities of these competing groups, both inside and outside the machine, are perfectly rational in the sense that they perceive their own particular interests and pursue them with gusto, and "irrationality" can arise *either* in a party *or* in the administration because the reconciliation of all these pressures is very difficult to achieve in a rational manner, especially where resources are limited. Perhaps the acuteness of the problem accounts for the quite unparalleled use of Royal Commissions in Australia as a method of canalizing these pressures and thereby reducing them below the threshold of discomfort.⁴⁵

One of the most important features of state intervention in this form has been the growth of machine politics on the American rather than the British model. During the nineteenth century, colonial ministries came and went with kaleidoscopic rapidity, reflecting on the parliamentary scene the shifting patterns of interest group alignments. The intrusion of the state machine as a major political force led to a comparative stabilization of these relationships, and consequently to stable ministries which have remained in office sometimes for decades at a time, with changes of personnel occurring largely by co-option following death or retirement.⁴⁶ This situation is not easily described in categories arising from British experience, where parties behave in a more ideological fashion and party philosophies can plausibly be regarded as motivating forces in the political struggle. It is, I believe, erroneous to suggest that Australian political institutions are "derivative";⁴⁷ on the contrary, the institutions themselves are of a distinctively local character, but are commonly thought of in derivative rather than indigenous terms, a process often enhanced by their superficially old-world appearance. An analysis along lines familiar to students of politics in America, where political machines and interest groups have long been regarded as normal facts of life, would have been more pertinent to the Australian scene. The growing use by political scientists in this country of group theories of politics is partly the result of American influence. In his most recent essay on the subject, Henry Mayer argues that political crises such as the fall of the Bruce-Page government are much better interpreted in terms of conflicting constellations of group interest than in the traditional categories of party differences, notions of the common good, or constitutional entanglements.⁴⁸

In other words, an analysis of Australian politics in terms of a two-party conflict is hardly relevant because no such thing as a two-party

system on the British model is to be found in Australia. But this, in its turn, is related to the nature of the state and of the executive government. "Responsible" or "cabinet" government in Britain is linked with the image of two parties behaving like opposing cricket teams, and requires conventions of responsibility not really applicable to the machine politics which is so important in Australia.

These are but a few of the problems which can, I believe, be elucidated by reference to the concept of the state as defined in this paper. It only remains to observe that, since all concepts of reality involve abstraction from and consequently distortion of that reality, the conception I have described must also involve distortion. But the extent to which it does so must be left for another occasion.

part two | CABINET

In *Cabinet Government in Australia*¹ Professor Sol Encel argues the paramountcy of cabinet among Australian political institutions as “the supreme decision-making body”, a central part of the constitutional system, the apex of the party system, the highest organ of public administration, and a top elite group. The Commonwealth and State Cabinets are much more the creations of deliberate policy and statutory enactment than their Westminster model, and it is fitting that a constitutional lawyer like Professor Geoffrey Sawer should introduce “Councils, Ministers and Cabinets in Australia”. The poverty of Australian political biography and autobiography deprives us of the details which a Jennings² or a Mackintosh³ can provide, although recently biographies of Prime Ministers like Deakin,⁴ Hughes,⁵ Bruce,⁶ Lyons,⁷ and Chifley⁸ have extended our knowledge of the workings of federal cabinet.

It is a federal cabinet, and Professor K. A. MacKirdy’s “The Federalization of the Australian Cabinet, 1901-39” shows the extent to which the demand of a federal system have affected the selection of cabinet members. Professor Encel carries the subject further and examines the social origins of federal and state ministers, to ask how they differ from the rest of the population.

4 | COUNCILS, MINISTERS AND CABINETS IN AUSTRALIA

Geoffrey Sawer

In January, 1956, the Prime Minister of Australia, Mr. R. G. Menzies, announced a reorganisation of the Federal or Commonwealth Ministerial system. Hitherto, in both the Commonwealth and state executive governments, Ministry and Cabinet have been synonymous. Mr. Menzies decided to institute in the Commonwealth sphere the modern United Kingdom distinction between the Ministry—all the Ministers—and the Cabinet—a group of senior Ministers who alone meet together to make the collective policy decisions of the Government. This is a convenient occasion for reviewing some features of responsible Cabinet government in Australia.

From 1854 on, the six Australian colonies of the British Crown acquired responsible parliamentary government on the British model;¹ when the states federated in the 1890's, they carried the principle of responsible Cabinet government into the Federal Constitution.² Some of the Federal Fathers doubted the possibility of basing a parliamentary executive on the new legislature since, like the Congress of the U.S.A., it included an Upper House, representing the states as such, whose powers were almost co-ordinate with those of the Lower House and were intended to be exercised.³ The parties to the argument about responsible government killing the federal principle or vice versa have each been proved partly right and partly wrong. The Commonwealth Senate has for the most part operated not as a States House but as a revising chamber dividing on the same party lines as the House of Representatives: hence there has been little difficulty in having Cabinets "responsible" primarily to the Lower House. But Australia has retained a constitutional system which is in many important respects "federal", or which at least has many of the constitutional rigidities of federalism; these have not killed responsible government, but have modified its operation. The federal experiment made no institutional changes in the organisation of the state governments, but it reduced their spheres of operation and more recently their financial

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autonomy in a manner which has enabled even the most populous and wealthy states to retain a bucolic simplicity in their executive arrangements which the United Kingdom and the Commonwealth have outgrown—not necessarily to the advantage of the latter.

THE STATES

Legal Origins

This section deals mainly with the states, since the Commonwealth has many peculiar features in legal organisation and practice. As with most British colonies of nineteenth-century origin, the states derived part of their organic structure from prerogative instruments issued by the Crown, and part from statutes of the United Kingdom Parliament; prerogative instruments were most important in the sphere of executive government, but the original constitution statutes dealt more explicitly with Ministerial arrangements than did contemporary United Kingdom usage. The Crown was represented by Governors whose office was created by Letters Patent, whose conduct was regulated by Instructions, and whose appointments were made by Commissions, all resting on the prerogative and issuing under the counter-signature of the Secretary of State for the Colonies.⁴ These documents instructed the Governor to obtain the advice of an *Executive Council*, made up of such persons as he chose; two Councillors and a President of Council (the Governor, with provision for acting Presidents in his absence) were to constitute a quorum, and all formal acts and documents were to be executed in Council. This body bears an obvious likeness to the Privy Council in the United Kingdom, but in Australian history it had at first suggestions of the Tudor rather than the Victorian Privy Council, since in the days before representative and responsible government it was an active advising body. It has been retained to this day as a convenient forum for the execution of the most solemn types of executive instrument—Orders in Council, Regulations of the Governor in Council, Proclamations and the like. Since most of the states lack Official Secrets Acts, the oath of the Executive Councillor who is also a Minister may provide—again rather as in the United Kingdom—some guarantee of ministerial secrecy. But it would take very little constitutional ingenuity today to provide forms of administration such that the Executive Councils could be entirely abolished. Their continuation in the early days of responsible government was quite appropriate, since it was not certain how fast the colonies would adopt in its entirety a system of ministerial executives chosen from the parliaments; the gradual rather than the sudden retirement of the Governor's official, active, non-parliamentary Executive Councillors was contemplated as a possibility, although as it turned out the colonists and their parliaments insisted on immediate

adoption of fully responsible Ministries.⁵ The older status of the Council is still reflected in the case of Tasmania, where the judges are appointed to it, although never summoned to attend meetings. In the other states, only Ministers of the Crown are appointed. In Victoria, Queensland and Tasmania, appointments are for life, but only the Ministers of the Crown for the time being are summoned to meetings; they are members of the Council "under summons." Those no longer "under summons" sometimes regard their membership as a sort of minor local dignity. In New South Wales, South Australia and Western Australia, Ministers resign from the Executive Council when they resign as Ministers, and would be removed by the President of the Council if they did not do so. All state Constitution Acts now recognise and to some extent regulate the Executive Councils—for example by providing that Ministers are *ex-officio* members—but leaving them on a substantially prerogative basis.

Ministers of the Crown likewise received full legal recognition from the first, in the constitutions and in special Acts. In this as in other respects the most remarkable document was the South Australian Constitution Act of 1855,⁶ which set out a list of Ministers, required that they should be or become within three months of their appointment Members of the Parliament, made them *ex-officio* members of the Executive Council, and recited that such Ministers would be "liable to loss of office, by reason of their inability to become Members of the said Parliament, or to command the support of a majority of Members thereof"—the most explicit statement of the basis of responsible government in any organic document of the period. The South Australian Constitution Act also abandoned from the first the United Kingdom rule originating in the Succession to the Crown Act, 1705, requiring Ministers to seek re-election if appointed to office after their original election.⁷ All the other states adopted constitutional provisions which necessitated re-election of Ministers: the Victorian⁸ and Western Australian⁹ were explicit and taken almost verbatim from the United Kingdom Acts of 1705 and 1707, but in the other colonies the sections on "office of profit under the Crown" were much more obscurely drafted and have to be read in the light of contemporary history before it is seen that the exceptions in favour of "officers liable to retire on political grounds" required re-election.¹⁰ These provisions were amended so as to abolish the necessity for re-election as follows: Victoria 1859; Queensland 1884; Tasmania 1900; New South Wales 1906; Western Australia 1947. (The Commonwealth from the first adopted the principle of no re-election.)¹¹ Queensland has neatly reversed the traditional provisions about offices of profit under the Crown dating from the U.K. Act of Settlement 1701; there, if the holder of such an office (not being a Ministerial post) is elected to parliament, he automatically vacates not his parliamentary seat *but the office of profit*¹²—a principle which if adopted at Westminster

would save many of the special Acts passed to rescue members from the intricacies of the law on this subject.¹³

These state constitutions were in general highly flexible, and remain so on the matters now under consideration. Hence there have been no constitutional obstacles to the creation of larger or smaller Ministries, of Honorary and Assistant Ministers, and of Parliamentary Under-Secretaries or Private Secretaries, though actually examples of the last two classes have been very rare. The choice of nomenclature has sometimes been quaint; there are now a number of state "Honorary" Ministers for whom statutes provide regular salaries.¹⁴ All states give legal recognition to the office of Premier (the title adopted by convention to distinguish the State Chief Ministers from the Commonwealth Prime Minister), and after initial hesitations they have included the Attorney-General in the list of responsible Ministers.¹⁵

Queensland's parliament is unicameral; in the five states with bicameral parliaments, the U.K. principle of primary Cabinet responsibility to the Lower House applies. But claims of Upper Houses—especially elective ones¹⁶—to Cabinet representation, and the necessities of piloting the Government's legislative programme through the Upper House, have produced both a general convention that some Ministers shall be in the Upper House and express constitutional rules on the matter. Thus in Victoria,¹⁷ not more than two Ministers may be in the Legislative Council (Upper House) and not more than eight in the Legislative Assembly, the emphasis being on the Assembly's claims; in South Australia,¹⁸ not more than five shall be in the *Assembly*, the emphasis here being on protection of the Council's position; Western Australia also emphasises the Council's position with a requirement that at least one Minister shall be a member of that House.¹⁹ These provisions apply only to Ministers with Portfolio. Victoria and New South Wales make provision for Ministers from one House appearing in the other House to defend Government Bills, but the N.S.W. section has never been used, and the Victorian one never since 1905.²⁰

Cabinets on the British model were also established from the first, notwithstanding the doubts of the Colonial office as to whether there existed the necessary party basis for viable Cabinet government. Until the 1890's politics were in fact more a matter of faction and of personal intrigue than of distinct party opposition, and changes of Ministry were frequent; it was often very difficult for the Governors to choose the appropriate person to form a Ministry. In that turbulent atmosphere, there was also a tendency to place less emphasis on British rules of Cabinet solidarity and secrecy and to undermine the authority of Chief Ministers. But the general intention was to follow the United Kingdom principles; the precedents and literature of the Mother of Responsible Government were closely studied, and before federation, the expression "unconstitutional" usually had the imprecise

London reference to convention and political morality rather than the present-day precise Australian reference to rigid written constitutional rules.²¹

The United Kingdom shibboleth that Cabinets are “unknown to the law” was likewise often repeated. If this means that Cabinets are not organically regulated by positive law, and that no formal legal acts are required to be performed in Cabinet, the statement is innocuous. But courts can and do take notice of the existence of Cabinets, and what happens or is considered there may become of legal interest, as is illustrated by nineteenth-century state cases. In *R. v. Tooth* and *R. v. Davenport*,²² the Supreme Court of Queensland had to decide disputes over the purported cancellation of Crown leases for breaches of the conditions of lease. The lessees claimed waiver. Rent had been accepted after the breaches alleged, and one question was whether this had been done after persons with whose knowledge the Crown could be fixed had become aware of the breaches. A change of government provided the lessees with former Ministers willing to give evidence of what had occurred both in the Executive Council and in Cabinet; when this evidence was tendered, Lutwyche J. upheld an objection by the Attorney-General (for the Crown). As to the Executive Council, he ruled that it would be against public policy to admit evidence of *discussions* in that body: “I should open a door which I do not think would be very easily closed again.” A *decision* of the Council could be proved by its minutes, but no specific decision was here in question. As to Cabinet, his Honour said: “The Cabinet . . . is not a body recognised by the Constitution. . . . The deliberations of the Cabinet and the determinations to which the Cabinet may come, are only binding and effectual if they are proposed to be carried into execution, and are ratified, by the action of the Executive Council.”²³ He pointed out that the Council might decide differently—an echo from the days when the Council did in reality “advise”.²⁴ He also pointed out that the responsible Minister for Lands might have competently made certain decisions within the scope of his departmental authority, but that nothing would be added to the authority of those decisions by the fact that he had discussed them with fellow Ministers in Cabinet, so that “his colleagues united with him in thinking he was right in acting as he did.” These dicta accord with the general traditional notion that to the law the Cabinet is an accidental parley of Ministers and nothing more. But *Davenport’s* case went on appeal to the Judicial Committee of the Privy Council,²⁵ which held (reversing the Supreme Court) that there had been waiver of the breaches so that the leases stood. Their Lordships recited the very evidence of the Minister for Lands concerning Cabinet proceedings which Lutwyche J. had ruled inadmissible—“Having made himself acquainted with the report” (concerning the breaches of condition) “he laid it before his colleagues in the Ministry, and . . .

the result of their deliberations was a determination not to proceed for the forfeiture of the allotments,"²⁶ and it was obviously this evidence they had in mind when ruling that rent had been received "not only with full knowledge of the breach . . . but in consequence of the decision of the Ministers of the Crown . . . come to after mature deliberation."²⁷ In *Toy v. Musgrove*²⁸ the Supreme Court of Victoria discussed very fully the implications of responsible Cabinet government, when considering the validity of exclusion of Chinese by fiat of Cabinet; in this case, however, the Judicial Committee on appeal²⁹ avoided the problems of basic constitutional doctrine which had divided the Victorian judges, by holding that in any event an alien had no enforceable *right* to enter the Queen's dominions.

This submission that Cabinets are known to the law must not be carried too far. Many empowering statutes require in terms the making of a formal decision or instrument by a named authority—usually the Governor in Council, or a Minister—and even if the policy question is first settled by Cabinet, the formal step must still be taken before the decision can be "known to the law." There are no recorded examples of laws which in express terms make Cabinet decision a formal authentication of the governmental will. Such provision could quite well be made so far as constitutional law is concerned, and with the development of Cabinet secretariats and proper records of Cabinet decisions, the practical difficulties would be less than might be assumed, but there are still sound practical reasons for avoiding such a course; a main purpose of ministerial conclave in Cabinet is speed and informality of procedure, and this would be imperilled if the precise terms of a decision had to be worked out in order to constitute a legally effective formal record. But when a legal issue is substantially one of fact, in which acts of the government as a collective person with knowledge and intention become relevant, there seems no reason why Cabinet proceedings should not be proved in a relevant case; they would of course be the subject of qualified privilege for purposes of defamation, etc. Questions whether a Minister had authority to negotiate or vary a contract binding the Crown, and had in fact done so, might provide examples as well as the waiver or estoppel type of problem illustrated by *Davenport's case*.³⁰

Notwithstanding the size which some state Cabinets have now reached,³¹ all have continued without even any suggestion of change the system—natural to small Ministries—of including all Ministers in Cabinet. These bodies have not even adopted regular or standing Committee systems to lessen the load on full Cabinet; they sometimes establish *ad hoc* committees to study particular problems, but even then final decision is always left to full Cabinet. The development of secretarial arrangements has also been slow. None has accepted the principle of admitting officials to Cabinet meetings. The several Premiers' Departments provide staffs which compile agenda, and in

some cases see that this is drawn up in a form inviting Ministerial annotation and summary of decision on the various items. This is most highly developed in New South Wales, as might be expected from the size of that Cabinet. Victoria has experimented with an interesting solution which avoids the traditional objections to officials breaking in on the secrecy of Cabinet discussion. Since 1954, statutory provision has been made for a "Parliamentary Secretary to the Cabinet,"³² who is paid a Ministerial allowance and whose special responsibility is to record decisions and supervise their distribution to Departments concerned; the Premier's Department provides the secretarial staff with which he collaborates. Cabinets have regular weekly meetings, but in addition the geography of state departmental and legislative buildings facilitates continuous informal ministerial consultation in a way which, as we shall see, is not possible in the federal sphere. Even the constituency duties of country Ministers in large and sparsely settled states do not detract from this, since the cultural, social and political life of the states is concentrated in their capital cities—excessively so—and country Ministers can live there for long periods without endangering their contact with the people.

The general United Kingdom Cabinet conventions about the position of the Chief Minister, joint responsibility and secrecy apply, with the same tendency for solidarity and secrecy to break down occasionally under the strain of Cabinet or party splits. The Premiers usually combine with their office that of Treasurer, and the joint position gives them especial power because of the workings of the federal system. Since 1929, the Commonwealth Government has come to play a dominant role in the public finance of the states, and the main institutions in which these relations are negotiated each year are the Loan Council and the Premiers' Conference.³³ The state Premier-Treasurers represent their states in both these bodies, and have a wide authority to commit their governments on financial questions. (The Commonwealth Prime Minister does not usually hold the Treasury Portfolio, so in that government there is not quite the same concentration of power in the one man. However, the Commonwealth Prime Minister derives an especial authority from his position as the Commonwealth's chief agent in dealings with the other governments of the British Commonwealth, in particular the United Kingdom Government.)

Party Pressures on Cabinets

The Australian party system is extremely highly organised, and although its main dialectics bear obvious relationships to the United Kingdom situation of Conservatives versus Labour, there are unique features which affect the working of Cabinets.

First, in the Commonwealth and in the states of New South Wales, Victoria, Queensland and Western Australia, there are three parties

which between them dominate the political life of the country. The Liberal Party (called in Victoria the "Liberal and Country" Party) occupies a position analogous with that of the United Kingdom Conservative Party; the Labour Party corresponds to U.K. Labour; those two are the only parties habitually contesting most of the seats at an election and claiming to be capable of supplying a Government based on their own strength. The Country Party (which exists as a separate force in South Australia only for federal purposes, and does not exist at all in Tasmania) is as its name indicates a "third party" contesting only rural seats and never likely (unless under a grossly gerrymandered electoral system, such as once existed in Victoria) to provide a government except with the support of one of the other parties; but it frequently holds the balance of power. For the greater part of its history, the Country Party has fought elections in more or less close alliance with the Liberal Party, and since 1923 most non-Labour Governments, federal and state, have been coalitions between these two parties.

Thus the making of coalition Cabinets has become a special art, and one in which the traditional British rules about the authority of the Chief Minister have had to be modified. Usually the Liberal partner has the strongest parliamentary following, and provides the Chief Minister. But the Country Party component can usually bargain for Cabinet representation out of proportion to its parliamentary strength, and for virtual equality of leadership between the Liberal Chief Minister and the Country Party Leader; the situation is indicated by the names usually given the federal coalitions—the "Bruce-Page" Governments of 1923-1929, the "Menzies-Fadden" Governments of 1949-1956. The two parties separately select their contributions to the Cabinet,³⁴ and usually respect each other's choice; one group may, however, raise objections to the choice of the other and thus necessitate bargaining before the list is settled. In the Commonwealth sphere, the Country Party traditionally claims the Treasury and the Post Office. No doubt Chief Ministers in the United Kingdom and in any two-party situation have to negotiate with sub-groups and faction leaders in the course of Cabinet making, but in the Australian situation just mentioned the procedure is more formally organised and the Liberal Chief Minister cannot be said even as a matter of principle to select his Cabinet; he has at the most a veto on the Country Party list, and his ability to allot portfolios is limited. Once formed, these coalition Cabinets usually work on ordinary principles, but at times mutual suspicion between the parties have produced special voting rules on determinations in Cabinet. The most important was that applying to the Bruce-Page Federal Governments; it was agreed that in a Cabinet of eleven, with six Nationalist³⁵ and five Country Party Ministers, motions should not be regarded as carried if supported only by the Nationalist six.³⁶

Secondly, all Australian parties now elect their Leader by secret exhaustive ballot of the parliamentary party (if the position is contested), so that there is never any question as to the person whom the Queen's representative will summon to form a Ministry.

Thirdly, the practice of election of Ministers by secret and exhaustive ballot of the party has been increasingly adopted; the Leader as Chief Minister is left to allot portfolios, and can often successfully run a "ticket" at the party election which will ensure at least a majority of men with whom he can work easily, but the restriction on the traditional British role of Leader is nevertheless very real. It is a system which strengthens the tendency for the party rather than the Cabinet to become a main arbiter of policy, since under it Ministers may regard themselves as answerable more to the party caucus than to the Chief Minister and Cabinet. However, although there is thus a greater tendency for Cabinet to refer critical questions to the party meeting, it is also usual for Cabinet's view to be adopted in the end, since the Ministers constitute a powerful *bloc* in the party meeting and one which has special advantages in information and experience. Election of Ministers was first adopted by the federal Labour Party caucus in 1908,³⁷ and has since been uniformly practised by the federal and state Labour Parties. After their formation from 1919 on, state and federal Country Parties have also made constitutional provision for caucus election of Ministers. The Victorian Country Party (which has sometimes formed state Ministries wholly from its own strength with floor support from other parties—the only Country Party to do so)—has occasionally practised the system; the Western Australian Country Democratic League (equivalent to Country Party) has used the system without constitutional provision since 1921 when supplying its components of coalition Ministries. The federal and N.S.W. Country Party's contributions to coalitions have always been selected by the Party Leader.³⁸ The Liberal Parties and their progenitors have usually opposed the elective principle, but in recent years have been more willing to consider giving it a trial. The Victorian Liberal and Country Parliamentary Party Constitution now provides for election of Ministries; the method was not used when the first government entirely from that party was formed in 1955, but it was used to fill the first Ministerial vacancy in January, 1956. In this case there is an interesting departure from the Labour method; at the initial formation of a Ministry, the choice of *two* Ministers is left in the discretion of the Leader.

THE COMMONWEALTH

The executive government of the Commonwealth has a number of special features. It is a case of particularly great importance, because of the national and international responsibilities of the Federal Parlia-

ment and Government; two world wars, a world depression and the necessities of Welfare-State planning, especially since 1945, have compelled the Commonwealth to exert a much wider range of executive powers than a scrutiny of its legislative powers, and even of its operative legislation, would lead one to expect. The present Coalition Government of Mr. R. G. Menzies (Prime Minister, Liberal Party), and Sir Arthur Fadden (Treasurer, Country Party) is in terms of Australian politics a conservative régime, pledged to the maintenance of the federal structure (which the Labour Party is pledged to destroy), and with a good deal of state-right sentiment at least among its backbench supporters; it is indicative of the centripetal pressures of the Australian system that in this Ministry there are four Departments—Labour and National Service, National Development, Primary Industry and Health—which a constitutional purist would expect only in State administrations, since the strict constitutional authority of the Commonwealth touches only peripherally on the subjects mentioned. Part of this executive exuberance is a carry-over from previous war conditions, or an anticipation of future war conditions; during time of “hot” war, the defence power almost swallows up the rest of the Constitution and gives the Commonwealth direct authority to control most aspects of the national life. Part of it is due to the financial predominance of the Commonwealth, as marked in peace as in war. Part is due to the tendency for problems considered provincial in scope in 1901 to become national in scope. The growth of dominion autonomy has extended the external authority of the Commonwealth, and turned the Ministry of “External Affairs” from a convenient sinecure for Prime Ministers into a key post. The Parliament has grown from an original 105 members to its present 184, and Ministries have grown from an original seven to twenty-two. These problems of scale and weight of responsibility would alone have made probable some divergence from the cosy domesticity of state Cabinet arrangements. But geography, the federal structure, special features of federal party history, and some more or less accidental rigidities of draftsmanship in the Constitution have added to the differences.³⁹

The *Federal Executive Council* is purely a statutory creation. The Letters Patent and Instructions of 1900 establishing and regulating the office of Governor-General purported, following the precedent of the state instruments, to authorise establishment of the Council, but legally this was supererogatory.⁴⁰ Membership of the Council is at the discretion of the Governor-General, except that Ministers of State of the Commonwealth are *ex-officio* members. In practice, only Ministers are appointed, but they are appointed by separate instruments without term stated, so that unless they resign they remain members for life; this necessitates the same distinction as in some states between members “under summons” (being by convention the Ministers for the time being) and those not so.⁴¹ The function of

the Executive Council is stated in section 62 of the Constitution as being "to advise" the Governor-General, but as with the state bodies its actual function is in the main to provide a formal occasion for the formal execution of documents which the Constitution or legislation require to be the act of the Governor-General in Council. Nevertheless, its meetings (usually about once a week) are not necessarily entirely formal. This depends on the difficult question of the personal authority or influence of the Governor-General, which can vary with the character and attainments of that officer and with the state of party politics. A strong-minded, able Governor-General accustomed to the exercise of authority and with little liking for the merely ceremonial or social functions of the office, may require that Executive Council meetings be pretty fully informed as to the meaning and necessity of instruments produced for execution. Such demands for clarification are rare, but they have been known to result in changes of opinion among the Minister and officials concerned; of course, if the paper is clarified and the advice pressed, the business then goes through.

This is not the place for a discussion of the Governor-General's personal discretions,⁴² but it may be noted that on two questions some Governors-General have insisted that they have a special right to be heard, even though the final decision is Ministerial; those are the exercise of the prerogative of mercy and some questions arising in the administration of the armed forces. Probably the prerogative of mercy is exercisable only because of its specific delegation to the Governor-General by the Queen in her Instructions; there is no doubt, however, that the Parliament could regulate the matter by legislation. The Constitution⁴³ expressly makes the Governor-General commander-in-chief of the Commonwealth's military forces, and this is a "rigid" provision; it may give the Governor-General a special right to be heard on questions concerning discipline, promotions and awards, subject to any legislative regulation of those matters.⁴⁴ The Secretary to the Executive Council, an officer of the Prime Minister's Department, rosters attendance of Ministers at Executive Council meetings, and to the extent that he succeeds in spreading attendance among non-Cabinet Ministers, these gatherings provide some opportunity for the latter to see work of other Departments.⁴⁵ How far the Governor-General and his Executive Council may thus play a "real" function in government depends to some extent on party considerations; Labour governments are less likely to encourage it than non-Labour, and the latter are more likely to encourage a "spirited" Governor-General if he is imported than if he is Australian. The present Governor-General, Sir William Slim, has exerted under favourable conditions a particularly strong influence, and personally presides at Executive Council meetings as often as possible.⁴⁶

The Commonwealth *Ministry* is likewise the creature of statute,

and the influence of the various state provisions we have mentioned is obvious; thus, as in South Australia and Victoria, the Constitution requires that all Ministers should be members of Parliament or become such within three months of appointment,⁴⁷ and, as in all the states, the number of full Ministers is regulated by Acts of the Parliament.⁴⁸ But owing to the extreme rigidity of the Commonwealth Constitution, provisions which were probably intended as narrative and descriptive rather than as rigidly constitutive have, in fact, turned out to be potentially restrictive of the freedom of the Parliament and its Ministries to adapt their practice to changing needs. The chief difficulties that have arisen relate to the appointment of subordinate Ministers (Honorary, Assistant, Parliamentary Under-Secretaries, etc.), and these arise from two sources.

First, sections 64-66 of the Constitution, which provide for the offices, duties, numbers and salaries of Ministers of State, leave in the discretion of Parliament only the number and the salary of those officers; they can be interpreted as giving rigid and mandatory force to a requirement that Ministers shall have departments to administer, and that only such Ministers may share the lump sum appropriated for payment of Ministers' salaries.⁴⁹ Even the form of the appropriation may be regarded as allowing the Parliament only to vary the lump sum provided, and not to specify its distribution between Ministers; so far the Parliament has acted on that assumption. There were certainly no great political principles demanding that the Commonwealth should lack Assistant Ministers, or Ministers without Portfolio, or that they should be paid only from a pool, when the Constitution was framed or since, and to apply the maxim *expressio unius, exclusio alterius* so as to produce such a constricting result would be pedantic. On the whole, the High Court of Australia and the Judicial Committee of the Privy Council have leaned against such rigid constructions in the field of legislative and executive powers, although being more strict (and this writer thinks pedantic) in the field of judicial power.⁵⁰ But when dealing with a rigid constitution subject to frequent judicial review, governments are naturally timorous and unwilling to incur even the parliamentary criticism of unconstitutional action. Several Commonwealth administrations have included unpaid "Assistant Ministers," but none since 1940; more usually the name "Honorary Minister" is used as a courtesy title for persons whose strict legal position is merely that of members of the Executive Council invited to attend meetings of the Cabinet, and giving unpaid personal assistance to Ministers at the discretion of the latter. From the first federal Ministry, there has been an office with the title of "Vice-President of the Executive Council"; since the 1920's the holder has usually been Government Leader in the House of Representatives, with a special responsibility for applying the closure in its

various forms, and a senior member of Cabinet, but he is not as such a Minister.

Perhaps Commonwealth Ministries have been unduly timorous and convention-bound in this matter. Even if interpreted with the greatest of strictness, section 64 of the Constitution does not require that only one person be appointed to administer a Department of State, nor does it say anything as to the allocation of authority between several persons so appointed. Hence, there is no constitutional obstacle to appointing a Minister and an Assistant Minister to administer the Department of Defence, both being "officers" and their respective authority being such as Parliament, or the common sense of Cabinet, dictates, and both paid. If Ministries had the courage to proceed on this principle, it is likely that they could outflank any conceivable judicial obstructions much as they have been able to outflank obstacles to the administrative use of judicial power.⁵¹

The other difficulty arises from section 44 of the Constitution, which in subsection (iv) and proviso repeats the familiar inhibition against any holder of an "office of profit under the Crown" being a Member of the Parliament, subject to the familiar licence to "any of the Queen's Ministers of State for the Commonwealth." As just indicated, the latter title can be given a very restricted connotation. If persons are appointed to offices not beyond all question Ministries of State under section 64 of the Constitution and paid as such under section 66, they face the possibility of automatic disqualification from holding their seats in Parliament (s. 44), and of actions for penalties at the suits of common informers (s. 46). Sometimes the Commonwealth may wish to appoint Ministers less than "full Ministers" at a salary; sometimes it may wish to pay such persons at least out-of-pocket expenses. What then? This issue was brought to a head in 1952, when the Menzies-Fadden Government appointed four "Parliamentary Under-Secretaries", allocated to particular Ministries; the appointments were made by the Prime Minister after consultation with Cabinet, and the appointees were not provided with salaries but were paid out-of-pocket expenses. These Under-Secretaries were expected to make themselves familiar with the problems of policy of their respective Ministers, to "devil" answers to parliamentary questions,⁵² to conduct correspondence on behalf of their Minister, and to receive deputations. They were not to make any decisions nor execute any documents which the law required to be made or executed by a Minister. It was forecast that Standing Orders would be amended so as to permit them to deputise for the Minister on Committee stages of a Bill under his charge, but no such provision was made and no Under-Secretary performed this function. On May 22, 1952, in answer to questions put to him by the Honourable A. A. Calwell, Deputy Leader of the Opposition, the Speaker, Mr. A. G. Cameron, stated that in his view the Under-Secretaries held

offices of profit under the Crown within the meaning of section 44 of the Constitution, and had thereby vacated their membership of the House, and that he refused to allocate rooms to them within the parliamentary building. On May 27 the Acting Prime Minister (Sir Arthur Fadden) tabled a statement controverting the opinion of the Speaker; the debate was adjourned and not resumed. The matter was again brought to a head in August, 1952, when some Under-Secretaries, defying the Speaker, occupied rooms in the Parliament and had their titles printed on their doors; apparently the printing of the titles was particularly offensive to the Speaker, who had the notices torn down. The Prime Minister, Mr. Menzies, had by now returned and on August 27 he tabled a statement defending the appointment of the Under-Secretaries, and inviting the House to approve the statement and thereby the appointments. This motion was carried on party lines.⁵³

The debate on this issue covered the customary range of parliamentary irrelevancies, but the main points turned out to be as follows: The Speaker, and the Labour Party supporting him, claimed that on the English precedents interpreting the phrase "office of profit under the Crown," it was not necessary that a Ministerial or sub-Ministerial appointment should actually bring any "profit" to the holder, and that payment of expenses could be a "profit." It was further claimed that the English precedents distinguished between "Under-Secretaries," whose office was normally an office of profit, and "Parliamentary Private Secretaries" who were personal secretaries appointed not by the Crown but by the Minister concerned and paid nothing. The Government claimed that the appointments were neither to an "office," nor to offices "of profit"; they said that not names but substance mattered, and these "Secretaries" performed the functions of the English "Private Secretaries"; further, that they were not offices "of profit," since no fee or salary was or ever had been provided, and payment of expenses was not enough. The Speaker admitted that farming rather than the law was his speciality, and it is clear that the Leader of the Opposition (Dr. H. V. Evatt), a very eminent Australian constitutional lawyer, was not prepared in unequivocal terms to support the Speaker's view on the law.

It is suggested that the Government was half right and half wrong in detail, and wholly right in the issue. The main authorities relied on by both sides were May⁵⁴ and the Report of the Select Committee of the House of Commons on Offices of Profit.⁵⁵ On these points, May is too condensed and allusive to be wholly satisfactory as a statement of the law.⁵⁶ The memorandum by Lord Campion constituting Appendix 2 of the Report of the Select Committee gives a masterly statement on the subject, but even it is slanted somewhat towards the particular problem then before the House of Commons, and hence contains statements likely to mislead an honest farmer.

If the cases discussed by these two authorities are considered from the particular point of view necessitated by the Australian problem, the result is as follows: First, if an office has never had attached to it any sort of salary or fee whatever, so that no holder of the office could under any circumstances claim payment of such emolument, then it is not an office of profit. Second, payment of reasonable expenses in relation to carrying out an office does not make the office one of profit; on this more hereafter. Thirdly, if an appointment is made personally by a Minister to provide political assistance for that Minister, it is not a Crown appointment, but if an appointment is made under the authority of the Crown, or of a Chief Minister to the Crown, or of the body of Ministers collectively, and the substantial purpose is to facilitate the work of a Department of the Crown, it is a Crown appointment. The Menzies-Fadden "Under-Secretaries" therefore held offices under the Crown. The Prime Minister could not have his cake and eat it by making their appointments a Cabinet matter and yet treating them as personal appanages of the Ministers in question. In substance, not in name, they were agents of the Crown. A Minister is not acting as such only when making final decisions committed to him or executing formal documents he is empowered to execute; all the work of his Department is potentially "Crown" work, and even the English exception of "Parliamentary Secretaries" is somewhat anomalous, in so far as they go beyond helping the Minister to maintain his political connections with his constituents. But since no fees or salary ever had attached or could attach to the offices, they were not "of profit" unless the out-of-pocket expenses paid could be regarded as such. No doubt a court, especially a court in a federal system accustomed to judicial review on strict lines, could find that an alleged "out-of-pocket expense" contained a concealed fee. But it is equally likely that such a court would not require an audited statement of expenses actually paid, and would be content with a reasonable pre-estimate of likely costs. On that test, the Government was right objectively as well as by majority.⁵⁷

Perhaps, too, the Government was *legally* right *because of its majority*. The Opposition claimed frequently during the debate that the House could not settle the matter by resolution; it was a justiciable question. They were challenged to take appropriate court action, but did not do so, and perhaps they were well advised not to do so. Section 47 of the Constitution says that until the Parliament otherwise provides, "any question respecting the qualification" of a Member of Parliament is to be decided by the House in which the question arises, and it is clear from section 44 that the allegation of holding an office of profit under the Crown raises such a question. It may be thought on a first reading that Parliament has otherwise provided in Part XVIII, Div. 2, of the Commonwealth Electoral Act, under

which the High Court of Australia, sitting as a Court of Disputed Returns, may decide such matters. But the court's power to decide does not arise unless the House concerned refers the "question" to the court; it is still competent for a House to decide the matter itself instead of referring to the court, and if the House does so, probably its decision would be final for the purposes of common informer proceedings before a court under section 46. If there is any doubt about the last proposition, the Parliament can end it by amending section 46, which is left within the reach of ordinary legislative process.

Hence, although the rigidities of the Constitution with respect to Ministers may be sufficient to worry the Commonwealth and its legal advisers, it seems that on any view the purely legal difficulties can be circumvented comparatively easily. It is the politics rather than the constitutional law of junior Ministers which Commonwealth administrations have found embarrassing. Such animals do not fit conveniently into Labour Party methods of election of Cabinets. Even the non-Labour parties have sometimes found them an embarrassment; the anti-climax to the argument over the Under-Secretaries whom the Government defended so vigorously in 1952, and who were supposed to be serving a valuable training for future Ministerial office, came in 1956 when out of six new appointments made at a Menzies-Fadden Cabinet reconstruction, not one of the former Under-Secretaries was appointed to Ministerial office and no further appointments of Under-Secretaries or equivalent officers were made at all.⁵⁸

Commonwealth *Cabinets* consist of Ministers of the Crown as described above, and such other members of the Executive Council as the Ministers choose to associate with themselves for purposes of counsel and advice. The Commonwealth, like the states and the United Kingdom, began by concealing the office of Prime Minister from legal view, but like the states has ended by giving it full statutory recognition, with an appropriate Department. The titles and duties of other Ministers have varied from time to time, as has the number of Honorary Ministers.⁵⁹ The makers of Commonwealth Cabinets have to cope with a number of special difficulties, as follows:

Firstly, although the Constitution contains no provision requiring Cabinet members to belong to any particular House of the Parliament, convention and political necessity require that the Prime Minister should belong to the House of Representatives, that the bulk of the Ministers should be of that House, but that the Senate should have some Cabinet membership unless (what is unlikely since proportional representation was introduced for the Senate in 1949) the governing Party has no Senate members. Senate members rarely consider that they are adequately represented in Cabinet, but with three Senators in the present Cabinet of twelve, and two of the ten non-Cabinet Ministers, they fare reasonably well.⁶⁰ It is essential that at least the Government Leader in the Senate should be a member of Cabinet.

Secondly, convention requires that Cabinet should contain at least one member from each of the six states. State interests secure representation to some extent through the Senate, as intended by the founders, and also through state or regional blocs on certain issues in the House of Representatives, but on the whole the most effective representation of state interests has been through the Cabinet convention, which has been followed since the first Cabinet. During a Cabinet reconstruction in 1926, the Bruce-Page Government omitted Tasmanian representation, on the plea of making efficiency override state claims; the slight was electorally resented by the Tasmanians at the general election of 1928, and Mr. Bruce (returned with a reduced majority) again found room for a Tasmanian. This attempt at abandoning the state-representation convention has not been repeated, although frequently the smaller states have been given representation only by an Honorary Minister. When constructing his new Cabinet, distinct from Ministry, in 1956, Prime Minister R. G. Menzies interpreted the convention as requiring state representation not merely for the Ministry as a whole, but for the Cabinet as well. On the whole, the convention has not obstructed careers for talents so much as might be expected; it is a wholesome thing for the cohorts from New South Wales, Victoria and Queensland, with their preponderant representation in the Lower House and in Cabinet, to have to hear some voices from the outposts in Adelaide, Perth and Hobart, and the potential ability of the smaller state representatives is indicated by the fact that of the sixteen Prime Ministers since federation, two of the most outstanding⁶¹ have been respectively a Tasmanian and a Western Australian.

Thirdly, Commonwealth governments are very much hindered in the organisation of their work by the problems of geography. Similar problems exist in all large countries; they press more in Australia⁶² because the population is spread thinly around the perimeter of the country; before air transport was established, the poor quality of land transport and, in particular, the diversity of rail gauges was a great handicap. The federal capital, Canberra, is a small country town⁶³ on the southern plateau of New South Wales inhabited chiefly by civil servants, research scientists and university teachers; it is not even on a main train route, and its social milieu, even more specialised than that of Washington D.C., provides no microcosm of the country as a whole. Hence Members and Ministers have to spend a great deal of their time in their constituencies; their metropolitan foci of organisation and cultural interest are the state capitals, and they are tempted to spend as little time with the Parliament and the Departments in Canberra as they can manage. (Some Departments still remain in Melbourne, federal capital until 1926.) Air travel has greatly mitigated the problem;⁶⁴ geography and climate facilitate year-round frequent air services, so that at least Ministers can be brought to meetings with

little notice. But not all Ministers—they always contain a proportion of elderly men—relish air travel or are at their best immediately after alighting from a thousand-mile flight, and the dangers of committing too many Cabinet Ministers to one plane were tragically illustrated in 1940 when the second Menzies Government lost three of its best Ministers in the one crash. When Parliament is not in session, there is some pressure to save up business in order to make Cabinet meetings fortnightly rather than weekly, though weekly meetings are usual even then. Certainly there cannot be the constant easy inter-communication between Ministers which characterises United Kingdom and state Cabinet life.⁶⁵ Departments are apt to be left to themselves for long periods, which affects the delicate balance between the role of the highly skilled professional official and the more or less amateur tribune of the people—and the federal service attracts a very high standard of permanent official.

Commonwealth Cabinets have developed a more formal organisation of their structure and business methods than have the Cabinets of the States. The development was accelerated when the administrative responsibilities of the Second World War brought about an increase in Cabinet numbers from twelve to nineteen, and a proliferation of Commonwealth activities which peacetime has not greatly pruned. The main lines of development have been as follows:

Firstly, the introduction of regular or standing committees which deal with regularly recurring types of business and usually make final decisions thereon, saving the necessity for any discussion of them in full Cabinet. Attempts at such committee systems were made even before the Second World War; the most ambitious was in 1938, when Prime Minister J. A. Lyons instituted a “policy committee” of seven senior Ministers, whose task was to advise on general policy. The non-Labour coalition was then beginning to break up from internal intrigues, and this proposal was greeted with scepticism both by Labour and by some Government supporters as an attempt to create an “inner group” in a purely political sense. The scheme was still-born. The early Menzies wartime governments began to develop specialised Cabinet Committees, but it was under the Curtin and Chifley (Labour Party) war governments that such Committees were firmly established and readily accepted by the parties. The main Committees were the War Cabinet, dealing with the external situation in a broad sense, and the Production Executive, dealing with the supply problems of the home front, but full Cabinet meetings were frequent and the most difficult questions always went there, even if largely technical.⁶⁶ The system broke down into a disorderly series of *ad hoc* committees during the post-war construction period, 1945-1949, and this tendency has been a recurring problem since. The Menzies-Fadden Governments in power since 1950 have developed four main Committees. The Prime Minister chairs the Economic and

the Defence Preparations Committees. The former was, until 1956, called the Prime Minister's Committee, and was concerned to some extent with general policy questions, but economic policy was always its main business and it has now shed its other responsibilities onto the new small Cabinet. The Defence Preparations Committee, especially important since the Korean War started, invites the Chiefs of Staff to its meetings. The Vice-President of the Executive Council chairs the Vice-President's and the Legislation Committees. The former deals with a miscellaneous group of questions not coming within the competence of the other Committees and not important enough for Cabinet; one important chore is settling the detail of Customs Tariff schedules. The latter scrutinises draft Bills to ensure that they express the policy intended to be expressed, and that when so expressed the policy still looks defensible. Departmental experts usually attend with their Ministers at these Committees, whose full Ministerial membership averages eight. However, there is a good deal of flexibility in their arrangements; less than the full membership may be called for some questions, and they may be supplemented for others.⁶⁷

Secondly, a highly organised Cabinet secretariat was established in the Prime Minister's Department. Before the Second War, preparation of Cabinet agenda and recording of decisions followed the same artless course as it still does in most of the states. During the war, the absolute necessity for getting the business attended to in orderly fashion and decisions properly recorded led to trusted officials being increasingly taken into Cabinet and Cabinet Committee meetings to act as Secretaries. The Prime Minister naturally supplied the secretariat for full Cabinet, but until 1948 the tendency was for some other Department to supply the staff for the specialised Committees.⁶⁸ In 1948, Mr. (now Sir) Allen Brown, a young lawyer with a genius for public administration, became at an extraordinarily early age the Secretary of the Prime Minister's Department, and he established a permanent peacetime system by which both the Cabinet and its Committees were serviced from his Department. The responsibility for preparing the list of business and collecting relevant memoranda or submissions is in the first place with these officers; they also make suggestions as to the distribution of work between Cabinet and its Committees, the final decision on these questions being with the Prime Minister. They also suggest a list of business for particular Cabinet meetings, which may involve deferring certain items, and the Prime Minister also finally decides this question; in the case of the Committees, all the business on hand is listed for the next meeting and it is left to the Committees to defer matters if they have to. Committees can refer questions to Cabinet and vice versa, but it is an unusual event. Cabinet and Committees can also exclude the recording official when they please, but that likewise is an unusual

event. The Secretariat then distributes a list of decisions to all Ministers,⁶⁹ and also decisions affecting particular Departments to the Permanent Heads of those Departments.

This position has been achieved only gradually. Ministers had to be accustomed to the presence of recording officials; some objected to having them at all, and others wished to keep their own records which might differ from the record of the Secretary. It was only in 1955 that the Cabinet list of business was confined to what a particular meeting could deal with; previously, Ministers had insisted that all business on hand should be listed, which reduced the value of the notice of meeting as a realistic warning of previous thinking required. There were inevitable suspicions that the Prime Minister's Department was "empire building"; this was met partly by tact and partly by *not* building up the Department.⁷⁰ The main development has occurred under the Menzies-Fadden régime, but the system now seems sufficiently well established to be continued by Labour—especially since the late J. B. Chifley, last Labour Prime Minister, was working towards some such end and started Sir Allen Brown on his Cabinet Secretariat career.

Thirdly, the establishing of a Cabinet distinct from the Ministry. This is too recent an event for any final judgment about its effectiveness or the likelihood of its lasting. Some federal leaders have for long complained that effective discussion and decision at the executive level is impossible in a body of more than about fifteen, and some put the optimum figure even lower. But efficiency in this sense is not the only criterion of a good Cabinet. Reasonable representation of main opinions, principal Departments and experienced political leadership are also necessary. Probably the increase of the Cabinet from twenty to twenty-two was the step finally pushing Mr. Menzies into the creation of a separate Cabinet this year—or did he decide to follow the United Kingdom example first and take advantage of this step to create more Ministries? He has not told us. The Cabinet now consists of twelve Ministers, and there are ten Ministers outside it.⁷¹ The Ministers not in Cabinet will be drawn into a good deal of group discussion with their senior colleagues through the continuation of the Committee system mentioned above, in which all Ministers participate; for example, the service Ministers (Army and Repatriation) not in Cabinet are on the Defence Preparations Committee, and the Minister for Primary Industry, not in Cabinet, is on the Economic Committee. Ministers not in Cabinet will also figure on *ad hoc* Committees, and one of the dangers the new system will face will be that of ambitious non-Cabinet Ministers trying to organise special Committees on which to press their views. Non-Cabinet Ministers will also be invited to attend Cabinet meetings when problems concerning their Departments, or problems on which they have special knowledge, are under discussion. They receive minutes of *all* Cabinet

decisions, and can see on request the submission on which a decision is based.⁷² This is all quite sensible and workable while Parliament is in session and Ministers are gathered in Canberra. There will be a good deal more difficulty during the long periods when Parliament is not in session, and Ministers, like other Members, tend to scatter. It will be easier to hold regular meetings of the Cabinet of twelve, but it will be harder to keep the Committee system going. Even before the new system was introduced, Committee meetings were a rarity out of session; if Ministers had to be fetched to Canberra, they disliked sitting around waiting for a Cabinet meeting while some of their fellows attended a Committee meeting, so the tendency was to put all matters into Cabinet. Now it may be that non-Cabinet Ministers will resist coming to Canberra merely for Committee meetings, or that if they do come there will be the same tendency to have everyone available together and make it a Cabinet, so that the distinction between Ministry and Cabinet will be blurred.

When the new system came to be debated in Parliament,⁷³ the issue was unfortunately complicated by an irrelevant political dispute over questions of Ministerial salary. The Labour Party, however, was substantially opposed to the scheme, and it seems likely that a Labour administration would abandon it and seek cabinet manageability by reducing the number of Ministers. Labour Party leaders thought a Cabinet of nineteen quite manageable, and asked why when exercising its more restricted peacetime powers the Commonwealth should require a larger Ministry.⁷⁴ The equalitarian principles of Labour make its members suspicious of schemes for "inner groups"; choosing the junior group would raise difficulties for caucus election of Ministers, while leaving the choice to the Prime Minister would increase his authority and so offend against principles of party democracy. The Liberal and the Country Party speakers on the whole supported the scheme, though with reservations and with many criticisms in detail. The limiting factors already mentioned, and considerations of political tact, required the Prime Minister to make some awkward choices. For example, the Ministers for Navy and Air are in Cabinet, but not the Minister for the Army, merely because the latter is a newcomer without special "state" claims. Territories, a relatively minor Department, is in Cabinet because the Minister was the senior Western Australian available. National Development, a somewhat residual Commonwealth activity, is in Cabinet, whereas Social Services, a major Commonwealth activity and one of great political importance, is out. Labour speakers made merry with these and other anomalies, and some Government supporters were glum for similar reasons. In defence of the Prime Minister it must be said that the shock of at once establishing a rational distribution without regard to vested political interests would have been too great. He has made a beginning and there are several directions in which

as time passes he can develop the scheme along rational lines. One of the most constructive speeches was that of Liberal back-bencher W. C. Wentworth, who suggested that the main fields of activity of the Commonwealth should be grouped, with a senior Minister, in Cabinet, in charge of each group, and junior Ministers, not in Cabinet, in charge of detailed Departments within each group; an obvious illustration would be a Cabinet Minister for Defence with overall responsibility, and Ministers for Air, Navy and Army working in close association with the Minister for Defence but not in Cabinet. Such a scheme would also help to overcome the constitutional obstacles to having junior or assistant Ministers.⁷⁵ Although now very wide, the range of Commonwealth responsibilities is still sufficiently defined to make such an orderly classification of fields easier than in the U.K.; however, in Australia as elsewhere, the practical administrator and still more the practical politician is apt to assume that the concept of practicality implies a certain sweet disorder.

The debate on the Menzies innovation of 1956 suggested that it will not be accepted at once, and may fail to endure. Indeed, the scheme has already been modified on one critical occasion. In February-March, 1956, the Government was under the necessity of taking difficult decisions in the field of economic policy, owing to the unfavourable drift of external balances and a renewed danger of internal inflation. Advisers, pressure groups and political allies gave conflicting opinions as to the steps to be taken; the Coalition once before (1951-1952) found its political popularity slumping very rapidly because of unpopular economic measures, and since on July 1 the control of the Senate passes into the hands of two dissident Labour members,⁷⁶ it is not impossible that an election will occur within a period to which the memory of electors will run. The new Ministerial system indicated for this case the following procedure: consideration by the Economic Committee (perhaps augmented, and perhaps after collecting specialised advice from outside experts); consideration by Cabinet; perhaps discussion by joint party meetings (since the political fate of all could rest on the result); final decision by Cabinet. In fact, for party meetings was substituted consideration at a meeting of *all the Ministers*—which might be regarded as a substitute for party, but was felt by most to be a reversion to the old full Cabinet. A non-Cabinet Minister defended this procedure to the writer by pointing out that if a Government decision is going to be of critical importance for the future of the whole Ministry, then the whole Ministry ought to discuss it. There is no reason why the United Kingdom Cabinet system should be slavishly followed, and since twenty-two Ministers is quite a manageable meeting for the discussion of a well-defined issue, this compromise between the two systems is defensible; however, there is the obvious danger that reference to the full meeting of Ministers will become so frequent

that the "Cabinet" will become at most a general policy "inner group."

This possibility of frequent or occasional meetings of the full Ministry also complicates a question which the Australians will in any event find difficult—namely, applying the rules of Cabinet solidarity to the new system. The United Kingdom precedents⁷⁷ suggest that Ministers out of Cabinet have somewhat more freedom to differ from Cabinet policy than do Cabinet Ministers, although not to the point of voting against it. But the limits of that freedom are hard to define, and any very consistent course of criticism would make the position of the Government intolerable. There are some detailed questions here which the U.K. texts do not discuss; for example, does participation in Committee discussion deprive the non-Cabinet Minister of all freedom to criticise the relevant decisions?⁷⁸ Presumably participation in a Cabinet discussion, even if only as a "consultant," would do so. In the new Commonwealth system, presumably any decision of all the Ministers should be supported by the Ministers out of Cabinet, but after the decision on economic policy referred to in the last paragraph, a Country Party non-Cabinet Minister criticised the policy and forecast what he considered desirable future policy in a way which even Mr. Gladstone might not have approved, tolerant as he was of such unauthorised policy statements.⁷⁹ Australian practice on Cabinet solidarity has in general been less rigid than Westminster's, though somewhat more rigid in non-Labour than in Labour administrations. But under the new Commonwealth system, the relationship of the junior Ministers to the Cabinet and its Committees is probably going to be too close to permit those Ministers any considerable latitude; the demand for Ministerial solidarity may be another factor tending to break down the new system, because of correlative demands from junior Ministers for a full share in policy-making.

5 | THE FEDERALIZATION OF THE AUSTRALIAN CABINET, 1901-39

K. A. MacKirdy

During the debates in the Australian federation conventions of 1891 and 1897-8, Canadian experience was usually cited to indicate practices to be avoided rather than emulated. J. W. Hackett, addressing the 1891 convention as a representative of Western Australia, which was then the least populous of the Australian colonies, stressed the need of a strong senate whose function it would be to convert the popular will into the federal will.¹ From the viewpoint of a defender of the interest of the smaller colonies, the weakening of the prestige of the senate, through the cabinet's being responsible in practice to the lower house, made responsible government a threat which Hackett was ready to attack. He questioned whether responsible government could be successful under any conditions. The experiment of the Canadian Dominion was hardly a success. "It was begun . . . in bribery and is continued by subsidies."² Pointing to the agitation for home rule in Ireland, he suggested that responsible government was a failure in Britain itself. "If that is the responsible government which they wish to graft into our federation," he asserted, "there will be one of two alternatives—either responsible government will kill federation, or federation, in the form in which we shall, I hope, be prepared to accept it, will kill responsible government."³ Responsible government has, in fact, proved rather deadly to Hackett's idea of federalism. Nevertheless, in Australia, as in Canada, the cabinet itself has been federalized, although the process in Australia has not been recognized by the quantity of academic and popular commentary which has marked its Canadian counterpart.⁴

Edmund (soon to be Sir Edmund) Barton announced the composition of the first cabinet of the Commonwealth in late December, 1900. As its eight members included the premiers and former premiers of five of the federating colonies,⁵ two additional members from New South Wales, and a second from Victoria, it seemed that the Canadian adaptation of the federal principle to cabinet-making was being fol-

lowed. One state, Tasmania, was not represented in the cabinet as originally announced. The island's leading pro-federation newspaper, the Launceston *Examiner* (Dec. 31, 1900), headed the story:

FEDERATION
THE FEDERAL MINISTRY
TASMANIA OUT IN THE COLD
A WEAK EXCUSE

Barton had explained that when the people of the island understood all the circumstances they would agree that he had no other course open to him. The maximum number of portfolios available was eight. In allotting the eighth, he said: "What influenced me was this—Western Australia is at the extreme end of the continent and is an important, growing community. Unless Western Australia is represented in the Government we shall know very little concerning her requirements. Tasmania, on the other hand, is a more settled community and is in close proximity to Victoria and the Victorian ministers will really represent Tasmania in the cabinet."⁴

The paper's editorial reaction to this explanation betrayed that sensitiveness to a slight, real or imagined, which is a characteristic of the inhabitants of a small community merging (with no intention of submerging) its identity and fortune with those of the larger ones. It is in such communities that the most ardent advocates of the federal solution are usually found. Under the heading "A Weak Explanation," the editor commented on the same day:

Tasmania is evidently regarded by Mr. Barton as the "Cinderella" of the Australian States—a small patch of land surrounded by water, settled by a handful of people whose claims to a representation in the Federal Ministry are not worth consideration. His explanation . . . is as weak as water; in fact quite unworthy of a man who is presumed to be a strong leader. No Tasmanian voter would wish to see Western Australia unrepresented in the team, but Victoria or New South Wales could very well have done with one minister for the present at least, and thus have saved Tasmania from the humiliating position Mr. Barton has placed her in. Tasmanians do not wish to be "represented"—save the mark—by Victorian ministers. The island State was most loyal in its attitude to Federation, and has every right to feel slighted by the base return the leader of the first Ministry has tendered its sterling services. The voters of the island should, to a man, assert their claim to a representative in the Ministry. . . .

Barton attempted to repair the damage by inviting N. E. Lewis, Premier of Tasmania, to serve as honorary minister (minister without portfolio). It was a stop-gap arrangement as Lewis had no ambitions in the federal field and retired as soon as a suitable successor was found. His replacement, Sir Philip Fysh, although a man of proved ability, was also denied a portfolio. Thus the federal practice of weighing the importance of the state against the ability of the candidate in

allotting cabinet posts was established at that early date. The succession of important portfolios held by the two Western Australians, Sir John Forrest and Senator G. F. (later Sir George) Pearce, however, indicates that paucity of population in the state represented was not an insuperable barrier to the advancement of an aggressive personality or an able and conscientious administrator.⁷

The numerical representation by states in the various Australian cabinets after their formation or after a major reorganization is shown in Table 1. The normal preponderance of Ontario and Quebec representatives in Canadian cabinets has its counterpart in the larger number of posts normally allotted to New South Welshmen and Victorians. It is noteworthy that on three occasions Victoria has been reduced to a single representative in the cabinet and on one of those occasions the single Victorian held no portfolio. The latter unusual situation resulted from the peculiar circumstances surrounding the formation of the second Hughes ministry from the few Labor supporters who remained loyal to the irascible "Billy" following the Labor Party's split on the conscription issue in 1916. The single Victorian in the first two Labor cabinets—the Watson cabinet and the first Fisher—can be explained in part by the fact that the Victorian voters returned few Labor members in the first decade of the Commonwealth. Watson, in fact, went outside his party for his Victorian, H. B. Higgins, who accepted the attorney generalship, an office for which no Labor member was qualified.⁸

Watson was also the only Labor prime minister of the Commonwealth who enjoyed the normal right of a first minister to select the personnel of his cabinet. In its conference in Melbourne in 1905 the Labor Party resolved that the personnel of future Labor ministries should be "recommended" by the parliamentary caucus of the party.⁹ Later Labor prime ministers (themselves selected by caucus) retained the right to allocate portfolios to the team thus selected for them by exhaustive ballot. Only the first cabinet thus chosen, the first Fisher administration, did violence to the developing conventions of federal balance: all the states except little Tasmania received representation, but the two less populous states, South Australia and Western Australia, were rewarded with three and two posts respectively, while New South Wales and Victoria received two and one. This situation produced surprisingly little editorial comment in the two major states.¹⁰ In South Australia the leading Adelaide paper noted in its heading of the news story that the state had been "well treated".¹¹ In view of the fact that the state had not been represented in the preceding cabinet, the paper's editorial comment on the high proportion of South Australians in the Fisher team merits quotation. The writer regarded it as "another tribute to the ability which, regardless of party colour, distinguishes the representatives sent by the State to the Federal Parliament". Never again has the ability of the South Australian representa-

tives been so recognized. The first Hughes administration, selected by caucus, failed to include a South Australian even though five of the state's six senators and four of its seven members of the House of Representatives were Laborites. So firmly had the principle of the right of a state to be represented at the council table been established by that date, that the question of the omission was raised in the state assembly¹² and editorial comment was forthcoming in far-away Queensland.¹³

The most serious neglect of the interests of the small states occurred in the formation of the Reid-McLean ministry in 1904. The cabinet-makers experienced too many problems in balancing the claims of the protectionist and free-trade elements of this uneasy coalition to be greatly concerned over the additional problems of state distribution. Both Western Australia and Tasmania were passed over. H. Mahon, a former Labor cabinet minister from the western state, pandered to regional sentiment by branding the omission of Sir John Forrest (the *bête noire* of the Laborites) from the cabinet as a slight which would arouse "the hottest resentment in such a free state as Western Australia".¹⁴ No strong protest appeared in either of Tasmania's two main newspapers, both of which were loyally supporting the new administration as a bastion against the threat of socialism. Not until the formation of the third Deakin ministry in 1909, in the formation of which federal considerations were more widely and more frankly discussed than on any earlier occasion,¹⁵ did the *Launceston Examiner* (June 3, 1909) enter another strong protest on the neglect of Tasmanian claims: "... though the team is ten strong there is not a Tasmanian on it. Well might one of our representatives exclaim upon the announcement, 'No Tasmanian need apply!'"

Although Table 1 would suggest that Tasmanian claims were usually recognized after 1909,¹⁶ the inclusion of Joseph A. Lyons, former premier of the state, as Postmaster General in the Scullin Labor Government in 1929 caused the Nationalist Premier of the state, J. C. McPhee, to move that the House of Assembly should express its pleasure in the appointment. In the subsequent discussion, attention was called to the fact that a Tasmanian was now "appointed a full portfolioed minister,"¹⁷ a reminder that Tasmanians usually had to be content with an honorary ministership or the post of vice-president of the executive council.

The desirability of providing for representation from every state was clearly established by 1909, but four decades later a state found itself unrepresented in the federal cabinet.¹⁸ It would seem that the task of federal cabinet-making would be far simpler in Australia, with only six states to satisfy, than in Canada, with its larger number of provinces and the added complications of balancing French- and English-speaking groups, and Protestants and Roman Catholics. The linguistically and culturally homogeneous Australians have not had to

TABLE 1

Distribution of Commonwealth Cabinet Seats by States on Selected Dates*

	Party	N.S.W.	Vic.	Q'land.	S.A.	W.A.	Tas.	Total	Senators
Barton 5 II, 1901	Prot.	3P	2P	1P	1P	1P	1H	8P, 1H	2P
1st Deakin 23 IX, 1903	Prot.	2P	2P	1P	1P	1P	1P	8P	2P
Watson 26 IV, 1904	L.	2P	1P	2P	2P	1P	—	8P	2P
Reid-McLean 17 VIII, 1904	Prot.-F.T.	2P	3P	2P	1P	—	—	8P	2P
2nd Deakin 4 VI, 1905	Prot.	3P	2P	1P	1P	1P	1H	8P, 1H	1P, 1H
reorganized 29 VII, 1907	Prot.	3P	3P	1P	—	—	1P	8P	2P
1st Fisher 12 XI, 1908	L.	2P	1P	1P	2P, 1H	2P	—	8P, 1H	2P
3rd Deakin 2 VI, 1909	Lib.	3P	3P†	1P, 1H	1P	1P	—	9P, 1H	2P
2nd Fisher 29 IV, 1910	L.	2P	1P, 1H	1P	2P	1P, 1H	1P	8P, 2H	2P, 1H
Cook 24 VI, 1913	Lib.	2P, 1H	3P	1P	1P	1P	1H	8P, 2H	2P, 1H
3rd Fisher 17 IX, 1914	L.	3P	2P, 1H	1P	1P	1P, 1H	1H	8P, 3H	2P, 1H
1st Hughes 27 X, 1915	L.	3P	1P, 1H	1P	—	2P	2P	9P, 1H	2P, 1H

2nd Hughes 14 XI, 1916	Lab.	3P	1H	1P	2P	1P, 1H	9P, 2H	2P, 1H
3rd Hughes 17 II, 1917	Nat.	3P†	2P†, 1H	1H	1P	1P	9P, 2H	2P, 1H
reorganized 21 XII, 1921	Nat.	1P†, 2H	3P†	1P	2P	1P	9P, 2H	2P
Bruce-Page 9 II, 1923	Nat.-C.P.	4P	3P	1P, 1H	1H	1P	10P, 2H	1P, 2H
reorganized 24 II, 1928	Nat.-C.P.	3P, 1H	5P	1P, 1H	1H	—	10P, 3H	2P, 2H
Scullin 22 X, 1929	L.	3P§, 1A	4P, 1A	1A§	1P	1P	10P, 3A	1P, 1A
reorganized 3 III, 1930	L.	5P§, 1A	4P, 1A	1P§	—	1P	11P, 3A	2P, 1A
Lyons 6 I, 1932	U.A.P.	2P, 2A	3P, 1A	1A	2P	1P	9P, 4A	2P, 1A
reorganized 11 XI, 1935	U.A.P.-C.P.	3P, 1H	3P, 2H	1H	1P	1P	9P, 4H	2P, 1H
reorganized 7 XI, 1938	U.A.P.-C.P.	3P, 2H	4P	1P	2P	1P	11P, 3H	3P, 1H
1st Menzies 26 IV, 1939	U.A.P.	3P, 2H	5P	2P	1P, 1H	—	11P, 4H	2P, 2H

*The dates do not indicate the occasions of cabinet changes but rather were chosen from periods when the composition of the cabinets had been stabilized. The following abbreviations have been used: C.P., Country Party; F.T., Free Trade; L., Australian Labor Party; Lab., Hughes' Labour (1916); Lib., Liberal; Prot., Protectionist; U.A.P., United Australia Party; P, ministers with portfolio; H, honorary ministers; A, assistant ministers. †As Deakin himself did not take a portfolio while serving as Prime Minister, he was, technically, an honorary minister.

‡W. M. Hughes, associated with N.S.W., but sitting for Bendigo, Vic. Here credited to Victoria.

§E. C. Theodore, former Premier of Queensland, sitting for Dalley, N.S.W. Here credited to N.S.W.

contend with the first of these complications, and the second has tended to be a domestic problem of the Labor Party which tries not to publicize it. The Labor caucus soon accepted the federal principle in selecting cabinet members. Anti-Labor prime ministers have frequently been faced with a problem which has been faced only once in Canada after the first Macdonald administration but which has been the rule rather than the exception in Australia, the delicate task of allocating portfolios between the parties of a coalition. Only one stable anti-Labor Government since the resignation of Hughes in 1923 has not included members of the Country Party and it—the first Lyons administration (1932-4)—was a result of a merger of the Nationalists and the few Labor men who went over with Lyons. (The first Menzies administration, April 26, 1939–March 14, 1940, was a minority government, composed entirely of United Australian Party members to which the Country Party gave qualified support.)

The original Australian federal cabinet was far smaller than the original Canadian. Whereas Macdonald required a cabinet of thirteen members to satisfy all the claims of the original four provinces of the new Dominion, Barton satisfied six states with nine positions. Although the increase in the number of Canadian provinces multiplied the demands for cabinet representation, Prime Minister King was able to construct a satisfactory cabinet on the eve of the Second World War with fifteen members with portfolio from the House of Commons and the leader of the Senate, who served without portfolio. By 1939 the membership of the Australian cabinet had increased to fifteen, although at no time prior to the outbreak of the war did the number of ministers with portfolio exceed eleven.

The honorary ministership was more popular in Australia than in Canada. As Table 1 indicates, the expansion of the cabinet was achieved by increasing the number of members from New South Wales and Victoria. In this process, honorary ministerships proved convenient makeweights in maintaining the balance between the two major states. In 1929 the Scullin Labor administration attempted to replace honorary ministers with assistant ministers who would relieve the more heavily burdened senior men of some of their administrative functions. Lyons continued experimenting with the innovation until 1935, when it was abandoned.

The task of selecting a cabinet approaching the size of Canada's from a parliament less than a third as large¹⁹ was alleviated slightly by the fact that the Australian Senate has continued to serve as a recruiting ground for cabinet ministers. No Australian prime minister has directed his administration from the red chamber in the manner of Sir John Abbott or Sir Mackenzie Bowell but all major portfolios, with the exception of the treasury, have been open to senators. The offices of attorney general, postmaster general, and minister for external affairs, for the interior, and for defence were all held at various

times before 1939 by senators. Although the portfolio of trade and customs remained in the lower house until 1940, it was then translated to "another place." The citizens of a state seem to consider that their interests will be as well protected at the council table by a senator as by a member of the House of Representatives.

None of the Australian portfolios has become associated with a particular state in the manner that fisheries, agriculture, and the interior have, at times, been identified with various Canadian regions. Possibly the most cogent reason is the simple fact that under the Australian federal division of powers, no Commonwealth portfolio has been created which dealt primarily with matters of a potentially regional interest. It should also be noted, however, that the distribution of economic activities bears less relation to the boundaries of Australian states than it does to those of Canadian provinces.²⁰

The Canadian practice of recruiting cabinet members outside Parliament has not been followed in Australia. The provision in Section 64 of the Australian Constitution that "no minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives" would complicate such recruitment, although seats are usually opened for the Canadian appointees in much less time. Whereas translation from a provincial premiership to an Ottawa cabinet post is a fairly frequent occurrence, no similar move has taken place in Australia since the formation of the first Commonwealth cabinet. W. H. Irvine and W. A. Watt, both of Victoria, E. G. Theodore of Queensland, and Joseph A. Lyons of Tasmania all had served as state premiers before entering the federal cabinet, but each had retired from state office, obtained a seat in the federal House, and, with the exception of Lyons, served some time as a private member before assuming cabinet rank.²¹

Theodore, incidentally, suggests another marked contrast between Canadian and Australian practice. As a rule, Australian cabinet ministers do not seek seats in states other than that with which they have been closely associated. Theodore, sitting for the Sydney metropolitan riding of Dalley, N.S.W., and W. M. Hughes, after his expulsion from the Labor Party, sitting for Bendigo, Vic., are the only notable exceptions. In both instances the move across the state border was made to secure a safe, available seat for an important party figure. The other consideration which has made the importation of outsiders as cabinet representatives palatable in Canada—the lack of local members with adequate qualifications for cabinet rank—did not exist in Australia. From the inception of the Commonwealth all its component states were established, long-settled communities. By 1901 Western Australia had enjoyed a decade, and the other colonies almost half a century, of responsible government in which to train a group of experienced political leaders. There was no Australian counterpart to the Canadian

west of the late nineteenth century nor to present-day Newfoundland. No Australian political unit is in the position of Prince Edward Island, which sends only four members eligible for cabinet posts to the federal Parliament. The least populous states sent eleven—six to the Senate and the minimum of five to the lower house. From this number at least one person of acceptable cabinet calibre usually could be found. The intense local pride of the smaller states might be illustrated in the failure of the Labor Party's attempt to strengthen its Senate ticket in Tasmania in 1925 by importing a Victorian, R. A. Crouch, to lead the team. The Nationalists exploited this "slight to Tasmania" so successfully that the experiment has never been repeated.²²

Possibly the most direct move from state to federal cabinet in Australia was that made by R. G. Menzies who, after resigning from the office of attorney general of Victoria to run in the 1934 federal election, was appointed Attorney General of the Commonwealth when the cabinet was reorganized following the election. A voluntary move from the federal cabinet back to the provincial field, such as Angus Macdonald's return, after the Second World War, to his old office as Premier of Nova Scotia, has no Australian counterpart. Another Canadian route to the cabinet which has not been travelled in Australia is that pioneered by Mackenzie King, via a deputy ministership or other civil service post.

A frank statement of what a state required of its cabinet representative was presented by the Launceston *Examiner* of October 6, 1941, in the pre-Pearl Harbor, but still dark, war days. Speaking of a possible appointee to the Labor cabinet then in process of formation the editorial writer remarked: "If he became a Minister his duties would, of course, be of national scope, but he would be in a position to help assure recognition of Tasmania's claims for a fair share of Commonwealth expenditure." A minister who did not secure such expenditure for his state could expect the type of criticism the same paper had levelled at King O'Malley many years before²³ for his failure to see that Tasmanian timber was used for the sleepers (railway ties) used on the construction of the Trans-Australian Railway, a project carried out under the supervision of the Department of Home Affairs, of which he was minister from 1910 to 1913.

Similar attitudes toward the function of cabinet ministers can be found in other states. The Brisbane *Courier* regularly assessed the state's cabinet appointees on their ability to fight for the interests of their state. Thus the paper, which was anti-Labor, hailed the appointment of Fisher and Dawson to the first Labor cabinet. The two men were described as "combative representatives" whereas the Queensland in the outgoing administration, Senator Drake, was dismissed as a "source of weakness to his own state."²⁴ The same paper viewed Littleton Groom's appointment to the third Deakin ministry with

misgiving, regarding him as too national in outlook to support the interests of Queensland.²⁵

Even Sir John Forrest, champion of Western Australian interests before, during and after Federation, did not escape censure from his fellow Westralians who suspected that long residence in Melbourne²⁶ had seduced his loyalties. A letter from one of his old colleagues to another contained the following observation: "... I do not think from what I have seen and heard that the East cares two pins about the West, and in the East I have to include, I fear, Sir John Forrest."²⁷

One use to which the Australian cabinet is put which has no Canadian counterpart²⁸ is that of trying to placate the inhabitants of a state where dissatisfaction with federal politics is rife by holding a formal cabinet meeting in the state capital. Thus, in 1935, within the month following the decision of the British Parliament not to entertain the petition of the Western Australian Government for legislation to permit the state to secede from the Australian Commonwealth,²⁹ eight Australian cabinet ministers and twenty-five officials journeyed across the continent. When they arrived at Perth, Dr. Earle Page, the Acting Prime Minister, explained that the special meeting was designed to serve as a gesture "of the goodwill which, after thirty-five years of federation, the eastern states bear toward Western Australia".³⁰ A similar meeting, described on the mainland as "a political gesture toward Tasmania and a personal gesture to J. A. Lyons,"³¹ was held in Hobart in 1939.

As Hackett had feared, the effective centre of power in the Commonwealth had come to rest in the cabinet rather than in a parliament dominated by a powerful federal senate. The elected Australian Senate soon became a party house rather than a states' house. Although it has remained a less moribund political organism than its Canadian namesake it is scarcely any more effective than that body as a guardian of regional interests. The adoption of the principle of federal representation in the cabinet, the very entity whose rise to political dominance was expected to kill federalism, reveals the vitality and adaptability of the federal concept. One price of federalism is the loss of apparent efficiency. Prime Minister Menzies has recently (1956) adopted the British practice of distinguishing between the ministry and the cabinet, and has included only a few senior ministers in the latter body.³² He is possibly ushering in a new phase of the struggle. Either the inner cabinet will kill the concept of the federalized ministry, or the necessity of providing places in it for representatives of the several states will nullify its effectiveness. As the earlier experiences have shown, it would be unwise to underestimate the power of the federal idea.³³

6 | THE POLITICAL *ÉLITE* IN AUSTRALIA

S. Encel

The notion of the “ruling class” has—with reason—been out of favour for a long time. It has, however, left something of a vacuum in political thought, which a number of people have tried to fill with “*élite* groups” of one kind or another. C. Wright Mills’s attempt to establish the existence of a “political directorate” is the most appealing, or at least the most forceful, but it also suffers from the defect common to most studies of this sort. It is one thing to establish that the large organized hierarchies of government, industry, finance, and military power tend to throw up small directing groups whose members exhibit well-defined social characteristics. It is a rather different undertaking to investigate the setting within which these “power-holders” or “decision-makers” operate; but without such further inquiries the concept of the *élite* has very limited value for the study of society. By the “setting” of power I mean such matters as processes of selection within the hierarchy, the sanctions attached to the exercise of power, relations between important groups within the various hierarchies, especially as shown in concrete acts, the nature and effectiveness of power as actually exercised, and the ends, apparent or professed, for which power is used.

Political history in Australia has been marked by some remarkably forthright statements on such questions, and these will be considered here in conjunction with the biographical kind of inquiry to which a number of writers have restricted themselves.¹ In common with Guttsman, the term “political *élite*” is here applied to Cabinet ministers. Because of its federal constitution, Australia has not one but seven Cabinets, and the state governments are vested with considerable powers. Accordingly, members of Cabinet in the six states are included in the biographical inquiry, and instances from state political history will be freely used.

CABINET GOVERNMENT IN AUSTRALIA²

In his little book on the *British Constitution*, Sir Ivor Jennings observes that the distinctive British contribution to constitutional practice is not representative but responsible government, that is to say, the conduct of administration by ministers who are members of and responsible to an elected legislature. In Australia this principle was introduced from the outset of colonial self-government in the 1850's. To conform with the British tradition, the seven written constitutions made no express mention of a Cabinet, and to this day they provide no more than a legal framework for it. The operations of the ministry proper are governed almost entirely by conventions, practically all of them adopted from British precedent. As in the case of the other countries of the Commonwealth, the working of these conventions has been greatly modified by the fact that they have to encounter political systems which do not work in the same way as Britain's. Australia, in particular, has been notable for the elaboration of a range of devices whose object is to enforce the responsibility of ministers, not primarily to one another, but to their party, both inside and outside parliament. In the process, the norms of behaviour which distinguish the British practice of collective responsibility have sometimes been changed almost beyond recognition. In this article we shall be concerned particularly with those aspects of the Cabinet system involving the mechanism of selection for office, and for controlling the behaviour of those selected when they are in office.

The emphasis on relations between the ministry and the governing party (or parties) arises from the generally held view that the proper function of the Cabinet is to act as an instrument of the popular will, expressed through the demands of political parties and organized interest groups. The machinery of state, on this view, is simply collective power in the service of individual rights,³ and true democracy, in the words of William Pember Reeves, "consists in the extension of state activity".⁴ One of the most striking expressions of such a sentiment was given in 1905 by a leading figure in the Labour movement, W. A. Holman, who later became Premier of New South Wales. In a celebrated public debate with George Reid, then Prime Minister of Australia, Holman declared:

We regard the State not as some malign power hostile and foreign to ourselves, outside our control and no part of our organized existence, but we recognize in the State, we recognize in the Government, merely a committee to which is delegated the powers of the community . . . only by the powers of the State can the workers hope to work out their emancipation from the bonds which private property is able to impose on them today.⁵

Holman was here expressing a view held throughout the community (and echoed, indeed, by his opponent in the debate). It has sometimes been suggested that the real difference between a Labour

Party and its political antagonists lies in Labour's greater readiness to exploit the possibilities of government intervention, and not in any clash of principle over *laissez-faire* versus *dirigisme*. While it is true that this situation now applies, more or less, in all advanced industrial states, it has been characteristic of Australian politics for two generations. One notable result has been the perennial insistence by Labour spokesmen outside parliament that a Labour government is first and foremost a "reflex" of the industrial movement. But a similar viewpoint is embodied in the rules of the Country Party, the "third party" in Australian politics, and although the Liberal Party is less explicit it has been known to act on similar lines.

An early manifestation of the general belief that politicians must be controlled in the "public interest" was the advocacy of elective ministries which appeared recurrently in the political literature of the 1880's and 1890's. One of the most persistent exponents of this proposal was the radical publicist David Syme, editor and publisher of the influential daily paper *The Age*. In a book published in 1881, Syme alleged that the British constitution, whose true principle was representative government as described in J. S. Mill's famous essay, had been corrupted by the superimposition of Cabinet or responsible government. Responsible government meant party government, with the result that the best qualified men were not appointed to ministerial office. If ministers were individually elected by parliament, their ability was more likely to be taken into account. Motions favouring elective ministries were introduced periodically into various parliaments, and a determined attempt was made to provide for the election of the Federal Cabinet by both houses of parliament when the federal constitution was being drafted in the 1890's. In 1925 a former Country Party minister in the composite federal government led by S. M. Bruce introduced such a motion into the House of Representatives, urging that ministers should be selected only on the grounds of ability. The powers of the Cabinet should be reduced so that its functions became purely administrative, and parliament should control policy through an extension of the committee system. As late as 1931 the All-for-Australia League, a conservative group with professedly "anti-party" aims, adopted a platform urging elective ministries.

In the event, what happened was the acceptance by the Labour Party of the principle that ministries should be elected by an exhaustive ballot of the parliamentary caucus (although the N.S.W. branch of the Party had at one time favoured election by parliament). A motion to this effect was introduced at the federal conference of the Australian Labour Party (ALP) in 1905, but at this stage the Party was only prepared to agree that the members of the ministry should be the subject of recommendation by caucus. One of the strongest opponents of the elective principle was J. C. Watson, who had been Prime Minister of a short-lived federal ministry only the year before.

At the next triennial conference in 1908, despite renewed opposition from Watson and other parliamentarians, the proposal for election by caucus was passed, and the method was used a few months later when Watson's successor in the federal leadership, Andrew Fisher, formed a ministry.

Non-Labour political opinion has always been divided on the virtues of this system. In 1905 the *Argus* newspaper issued a warning that election by caucus would result in the parliamentary Labour party becoming "the Jacobin Club of Australian politics".⁶ *The Age*, on the other hand, welcomed the conference decision in 1908 as a step towards the ultimate goal of ministries elected by parliament, and "a great improvement on the old system of secret selection".⁷ After the election of a state Labour ministry in Western Australia in 1912, the leader of the Opposition in the Legislative Council, J. W. Kirwan, observed that the conduct of the election had almost converted him to the principle, adding: "I think that the system of election is valuable inasmuch as it relieves the leader of embarrassment, and also I should imagine it prevents the jealousy that sometimes exists in parties where a particular individual may not be selected, and there is much subsequent irritation."⁸ On occasion, non-Labour ministries have resorted to election to resolve an awkward situation. In 1894, following the resignation of the Premier of Tasmania, the Governor sent for P. O. Fysh, leader of the largest party in the House of Assembly, who declined to accept a commission. After negotiations between the two "progressive" groups in parliament, a ballot was held to decide the election of a leader, who could then be commissioned to form a government. In 1912 a deadlock arose in Queensland over the appointment of an Acting Premier during the absence of Denham, the Premier, in Britain. As there was keen competition for the post, Denham decided that any selection made by him might have the appearance of choosing an heir-apparent. A ballot was accordingly held, with the Clerk of the Legislative Assembly acting as returning officer.

During the First World War there emerged as a permanent force on the political scene a party based on the rural areas. It was originally called by a variety of names (e.g. the Farmers' Union and the Progressive Party), but the title of "Country Party" became general in the 1920's. The Party adopted a series of rigid rules governing the participation of its parliamentary members in composite ministries. It should be explained that since the appearance of the Country Party, it has been virtually impossible for the main non-Labour Party, the Liberals (also known at various times in their history as the Nationalists and the United Australia Party), to gain a parliamentary majority, and as a result non-Labour administrations, with only rare exceptions, have included ministers from both parties. The rules of the Country Party were designed to protect its position as a permanent junior

partner, and the device of a "composite ministry" rather than a "coalition" was the result. In this situation each party retains its separate identity, and the two parliamentary groups regularly hold separate meetings. Ministers remain responsible to their own party and not merely to the Cabinet, and the choice of ministers by the Prime Minister or Premier⁹ is restricted by the right of the Country Party to nominate an agreed number of ministers and usually to specify the portfolios they will hold. Country Party ministers are bound by decisions of the extra-parliamentary party as well as their own caucus. The Party's federal constitution lays down that "acceptance of portfolios in any other than a purely Country Party government must be with the approval of a majority of members of the Federal Council". From the beginning Country Party ministers have been elected by exhaustive ballot on precisely similar lines to those of the Labour Party.

During the last few years the elective principle has made headway in the Liberal Party as well. In 1954 a public opinion poll showed that almost half of the voters who normally voted for the Liberal Party favoured the election of Cabinet ministers.¹⁰ In the following year the Liberals were returned to office in the state of Victoria with a majority over both other parties. Some years earlier the state Liberal Party had attempted to negotiate a merger with the Country Party, which failed in the country at large but led to the entry of several Country parliamentarians into the Liberal caucus. After the election victory of 1955 the Party, now known as the Liberal and Country Party, adopted a set of rules providing for the election of ministers, presumably under the influence of the events just described. These rules provide that when the leader of the LCP has been commissioned to form a government, the Party shall elect all members except two by secret exhaustive ballot. The Premier will then appoint the two remaining ministers, and allot all the portfolios. (The ALP rules also provide that the Party leader has a free hand in the allotment of portfolios, once the required number of ministers has been chosen.) Vacancies arising in the ministry are dealt with alternately by election or through appointment by the Premier.

The example of Victoria was followed two years later in Queensland, where Labour was unseated by a Country-Liberal combination. After the parties had agreed on the division of portfolios, the ministers were elected by exhaustive ballot among the parliamentary members of each party, acting separately. An attempt has also been made to have the system introduced in Canberra. In 1956 a special committee of the Federal Parliamentary Liberal Party produced a report urging that the possibility of electing part or all of the Cabinet should be the subject of decision by the Liberal caucus. No action, however, has been taken on this recommendation.

THE "DEMOCRACY" OF ELECTION BY CAUCUS

It is not possible in a single article to deal adequately with the numerous and complicated struggles that have attended the interminable attempt to make governments directly responsive to the wishes of their political supporters. Enough has been said to show that the processes by which the members of governments are selected—which is the question to which this article is addressed—are an integral part of this general context. Indeed, this is true of any political system, and criticisms of the elective method are often superficial because they fail to take this into account. Lord Attlee, for example, is quite sure that the ALP's procedure (which, incidentally, was adopted by the New Zealand Labour Party in 1940) is wrong.¹¹ It is apparent that what he means is that it is inconceivable in Britain. It is not only inconceivable, it is irrelevant. Such a practice would be quite out of harmony with the general character of cabinet government in Britain, but it is readily explicable in its native habitat, just as the method of electing the Swiss Federal Council is the outcome of a highly idiosyncratic political system. We may now look more closely at the working of the process, beginning with the Labour Party, where the situation is most clearly defined and the operation of the machinery is open to close inspection.

Election of the ministry has been attacked not only by Labour's political antagonists but by people inside the Labour movement. One disgruntled candidate for office wrote that the elective system "was productive of destructive and disintegrating influences . . . out of a well of barter and intrigue arose a great deal of jealousy and much ill-feeling (for a time concealed), while some Ministers were burdened with preliminary obligations which they were obliged to honour when they would have preferred other courses". Describing the election of the New South Wales government in 1913, he recounts the activities of one individual who "strove to purchase a portfolio by buying drinks and dinners for members and by almost forcing loans on impecunious newcomers". On the day of the ballot this member checked his investments by "scrutinizing the ballot papers of his debtors behind the roller maps in the Public Works Committee's room where the voting took place". The system was a rotten one because it relieved the Premier "of all responsibility with regard to his colleagues and enables him, if so minded, secretly to select the sycophants and incapables best fitted to be his tools".¹² The late Professor Gordon Childe, who at an early stage of his career was private secretary to a Labour Premier of N.S.W., wrote caustically of the preference shown by caucus for faithful party hacks rather than men of ability: "Such consistency in the choice of old favourites is sufficient commentary on the efficacy of this check in the hands of caucus."¹³

Disraeli, writing in *Coningsby* about the Tory governments of the

1820's, observed that it was not feasible "to gratify so many ambitions, or to satisfy so many expectations. Every man had his double; the heels of every placeman were dogged by friendly rivals ready to trip them up." The elective process encourages manoeuvres both to get into office and to eject the least popular of those already there. The parliamentary party is generally anxious to promote a "spill", i.e. the complete re-election of the ministry. Spills always occur when a Labour ministry is returned at a general election, and frequently when a casual vacancy arises, although as Labour governments have become more and more stable and long-lived during the last generation, this tendency has become less marked. The common feature of caucus elections is the existence of "tickets" (i.e. lists of preferred candidates), promoted by the party leadership or by blocs among the members. The two groups most frequently accused of bloc voting are the organized right-wing Catholic faction and the Australian Workers' Union (AWU). The AWU is a vast general union, by far the largest and most influential in the country, and its ability to influence both the personnel and the policies of Labour governments has been evident in the federal sphere as well as the two states of Queensland and N.S.W., where it is strongest. At the N.S.W. state conference of the ALP in 1913, when the AWU leaders accused the ministry of flouting the will of the labour movement, they were attacked by George Black, who accused them of trying to oust members of the ministry by nominating members of the AWU against them at the impending general election. Between 1916 and 1923 the party in N.S.W. was dominated by the AWU, and a series of struggles took place over the composition of the Storey and Dooley governments (1920-2). In 1916 the movement had been split by a violent dispute over conscription for military service, and in the process almost the entire leadership of the party had been expelled (the press declared that Labour had "blown out its brains"). When Labour won the N.S.W. general election in 1920, competition for places was correspondingly intense. John Storey had been elected parliamentary leader in 1916, but the AWU leadership tried to unseat him before the ministry was chosen. According to one of the principal actors in these events, a group of parliamentarians under the leadership of John Bailey, president of the Central Branch of the AWU, met secretly in Centennial Park, Sydney, and drew up a "ticket" on which Bailey, who was a member of the Legislative Council, was second. Storey got wind of the meeting and sent one of his lieutenants, W. J. McKell (later Premier of N.S.W. and Governor-General of Australia) to report on it. He then drew up a counter-ticket, which swept the poll.¹⁴ The AWU rationalized its hostility to the parliamentary leadership by invoking the traditional distrust of politicians. An article in its weekly newspaper, *The Worker*, declared that the Labour politician had assumed too much importance. "We leant heavily upon him and he

was not strong enough to bear the burden. Then when he failed us, in our rage we struck out furiously, treating as a bad servant the man we had depraved by making him master."¹⁶ A few years earlier a famous editorial in this paper had proclaimed that the ALP was "infinitely in advance of the days when the workers had to be 'led'. They have no use for leaders. In conference assembled, they formulate their policies and decide their tactics."¹⁶

Soberer historians of the Labour movement have suggested a less high-minded explanation for these recurrent conflicts, in which ministerial office is the prize. Childe shows that Labour history has been characterized by repeated cycles in which the existing leadership is overthrown by a trade union faction, whose leaders achieve ministerial office by using the "solidarity" on which the movement is based. Professor Miller asserts that

the practices of the Labour Party . . . all tend towards a condition in which a Party clique can retain power within its hands . . . dictatorial authority in the Labour Party has always been exercised in the name of "the Movement", and has fed upon a widespread suspicion within the rank and file of "careerist politicians" . . . one after the other, a series of Trade Union and party cliques has at various stages of Australian political history used these arguments to destroy its rivals and in turn to be destroyed by them.¹⁷

Discussing the struggles in N.S.W. already described, D. W. Rawson points out that most of the AWU leaders were themselves politicians, and that what was sought "was not the domination of politicians by the [party] executive but the domination of both executive and politicians by a particular group of men who included members of both".¹⁸

The role of the Catholic Church in these struggles is both more complex and more subtle. The exact correlation between Catholic belief (usually associated with Irish origin) and Labour political affiliation has always been a matter of controversy, and careful study of the problem is only a recent development.¹⁹ The general indication, however, is that about three-quarters of all Catholics consistently vote Labour (including, since 1955, both the ALP and the almost exclusively Catholic splinter party, the Democratic Labour Party). As Labour votes are generally close to one-half of the total in both state and federal elections, it is reasonable to infer that about 40 per cent. of Labour support comes from Catholics (who make up 25 per cent. of the entire community). With the aid of the peculiar religious and social solidarity conferred by the Catholic religion, it is not difficult for so large a minority to organize itself for gaining power. However, this solidarity must not be exaggerated, and attempts by Catholic laymen or clerics to exploit it for political action have led to considerable tension within the Catholic community. Nor is it possible to show that the Church has greatly benefited in any specific way from the undeniable fact that a very high proportion of Labour ministers have

been Catholics. It is, in fact, in this sphere rather than in policy-making that the Catholic influence has been most notable. The exercise of this influence has varied from one situation to another. In Queensland most of the AWU leaders have been Catholics. Between 1915 and 1957 Labour was continuously in office in that state with a single interruption from 1929 to 1932. During that period five of the eight Labour Premiers were Catholics, and only a handful of ministers did not belong to the faith. The stability of the Queensland Labour governments depended greatly on the close ties between the ministry and the AWU, which dominates the powerful "inner executive" of the state ALP. It is all the more interesting, therefore, that the fall of the Labour ministry in 1957 was precipitated by a split between the government and the party executive on politico-religious grounds. The ministry, with one exception, were sympathetic to the Catholic faction which broke away from the federal and Victorian parties in 1955 to form the DLP; the deputy Premier, who was the exception, is also a Catholic, as was Mr. Bukowski, the secretary of the AWU in Queensland, who was also president of the party executive. However, the AWU leadership had become hostile to the DLP, and it was this hostility that brought about a political crisis.

In N.S.W. Labour was in office continuously from 1941 to 1965. During that period, three out of the five Premiers were Catholics, and so were all but a handful of their Cabinet colleagues. Allegations of a Catholic "ticket" were made when a "spill" took place in 1952 following the resignation of the Premier, J. J. McGirr, and his replacement by J. J. Cahill. One of the few non-Catholics in the ministry, Mr. C. R. Evatt (brother of the then Federal leader, Dr. H. V. Evatt), had been involved in a public controversy in the previous year over a scheme to establish a Catholic university in N.S.W., and allegations were made that a ticket had been organized to exclude him from the new Cabinet. If the attempt was in fact made, it did not succeed, and Evatt was elected to the ministry. In the same year Labour came to office in Victoria, and six out of the fourteen members of the ministry were Catholics. It was later alleged²⁰ that one of the six, who was a very junior member of the parliamentary party, had been elected as a result of a ticket.

In the Federal parliamentary party the number of Catholics and non-Catholics was roughly equal over the period of fifty years following the election of the first Commonwealth parliament in 1901.²¹ However, the conscription schism of 1916 led to a drastic change in the religious composition of the ministry. Among the 70 men who were ministers in Labour governments between 1904 and 1949, 40 were Protestants, 27 were Catholics, and 3 were freethinkers. In the conflict over conscription, the backbone of the opposition to this policy was the Catholic Church, under the leadership of Dr. Daniel Mannix, Archbishop of Melbourne, and previously head of Maynooth College.

(Archbishop Mannix, who died in 1963 at the age of 99, continued to the end of his life to be a potent force in the Church and in politics.) All but a few of the Party leaders who left the ALP on the conscription issue were Protestants. Consequently all but 5 of the 27 Catholics who became ministers held office subsequently to 1916. In the Chifley government of 1946, 11 out of the 19 ministers were Catholics.

In Commonwealth politics there is the added complication of a federal system, which introduces a geographical bias into the selection of ministers, as each state tries to obtain its fair share of portfolios. "Tickets" usually take this into account. The combined operation of the factors just described may be illustrated by taking the aforesaid Scullin ministry as a case study. When it took office in 1929, the federal parliamentary party had 56 members (the combined membership of both houses of the Commonwealth parliament then being 111). They were divided between the states as follows: New South Wales, 22; Victoria, 14; Queensland, 5; South Australia, 8; Western Australia, 2; Tasmania, 4; the Northern Territory, 1. The portfolios were distributed in the following way among these states: Victoria, 5; N.S.W., 4; and one each among the four remaining states. Victoria was thus over-represented at the expense of N.S.W., the reason being that the successful ticket in the election had been the one backed by the AWU. At this time, the Labour machine in N.S.W. was controlled by a faction bitterly hostile to the AWU, headed by the former Premier, J. T. Lang, whereas the two leading figures in the Federal parliamentary party were J. H. Scullin (Victoria) and E. G. Theodore (formerly Premier of Queensland) who were both linked with the AWU. Only one of Lang's supporters, J. A. Beasley, was successful in this election. The first "spill" took place in March 1931, after 5 members of caucus, including 2 ministers, had defected to the Opposition. (The chief defector, J. A. Lyons, later became leader of a non-Labour government.) In the meantime Lang had again become Premier of N.S.W., and was espousing a set of fiscal measures to combat the depression crisis which were in sharp conflict with Commonwealth policy. As a result Beasley was defeated in the ballot, but N.S.W. increased its representation to 5 ministers. In June Beasley and the other Lang supporters refused the Labour whip, and a further "spill" took place, in which N.S.W. representation rose to 6, while Victoria's fell to 4. Thus, although N.S.W. representation in caucus had fallen by 7, its representation in Cabinet had increased from 4 to 6. This increase reflected the growth of AWU influence on the selection of ministers. In the first ministry there were 2 men linked with the AWU; in the second there were 4; in the third there were 5. One of them had been federal president of the union from 1919 to 1922; another was federal president from 1924 to 1938; a third was an official of the South Australian branch, and became federal president in 1938. A fourth was a former state president of the N.S.W. branch, and the fifth had

been an organizer for the union in the latter state before entering parliament. In addition, one of these men was Scullin's brother-in-law. Side by side with the advance of the AWU went an increase in Catholic representation. In the first ministry, 8 out of 13 ministers were Catholics. Despite the defection of one of them (Lyons) the number rose to 9 in the second ministry, and to 10 in the third.

The influence of Scullin himself can be traced in these reshuffles. In the first "spill", he was instrumental in having Senator Daly, of South Australia, dropped from the ministry, and he was also responsible for the exclusion of John Curtin, later Prime Minister, from Cabinet. Curtin was member for a West Australian constituency, and on grounds of ability he should have obtained the one portfolio to go to a West Australian member. However, Curtin did not commend himself to Scullin because he was an ex-Catholic who had become an active rationalist; he was a heavy drinker; and he was unpopular with the AWU.²² A nonentity was chosen instead.

THE NON-LABOUR PARTIES AND "OUTSIDE INTERESTS"

Although there is no reason to believe that the internal relations of the non-Labour parties are significantly freer from strife than those of the Labour Party, they are generally less well publicized. A similar bias is to be found in other countries, but it is accentuated in Australia by the dramatic possibilities inherent in the election of Cabinet by Labour caucus. The influences which can be studied are those of the Country Party within a composite ministry, and the role of the "outside interests" whose importance in financing the Liberal Party may sometimes extend to a direct attempt to influence the personnel of Cabinet, especially the choice of the Premier or Prime Minister.

From an early stage the Country Party was able to exercise some influence on the choice of the leader of a composite Cabinet. In Tasmania the Nationalist Premier who had led the government since 1916 was deposed in 1922 as the price of Country Party participation in the ministry. In Victoria, after a series of political crises, a composite ministry was formed in 1925 with the Country Party leader as its Premier, although the Nationalists were the larger party. In other cases the CP has been able to bargain successfully over the number of portfolios it is to receive. In 1927 the Nationalist leader in N.S.W. offered the CP two portfolios in a composite ministry, but the CP was able to hold out for four, with its leader as deputy Premier. However, the most spectacular instances of the ability of the CP to affect the choice of a Prime Minister have occurred in federal politics. In 1922 there was a Nationalist government led by W. M. Hughes, who had been Labour Prime Minister until the great split over conscription in

1916. The Country Party, led by Dr. Earle Page, was hostile to Hughes and his closest associates. At the general election held in November 1922 the Nationalists lost their majority in the House of Representatives, and the CP now held the balance of power. It succeeded in driving a hard bargain, by which Hughes was forced to resign and give way to his Treasurer, S. M. Bruce, who was *persona grata* to the Country Party. Only one other member of the former Hughes ministry was included in the new composite government, in which the CP held four of the eleven portfolios, although its parliamentary representation was well under half that of the Nationalists. As these manoeuvres took place after an election campaign in which Page had described the Nationalists as "looters and burglars", and Bruce had described the Country Party as "men of paralysed intelligences", it is no matter for surprise that the history of the government was marked by continuous tension and a long series of resignations and public quarrels. In a reference to the fact that Page was a surgeon by profession, one Labour member accused him of administering an anaesthetic to the Nationalist party, "rendering them unfit for further service as His Majesty's Government, though possibly useful as attendants on the Sultan of Turkey".²³ Another Labour speaker observed that Hughes had been "taken to the bathroom, where his political throat had been cut".²⁴

Apart from the Country Party's role in such cases, it has undoubtedly restricted the field open to aspiring members of the Liberal Party. In 1934 the Minister for Commerce in the outgoing ministry led by J. A. Lyons was dropped in favour of Page when the Country Party joined a composite government. Since the assumption of office by a composite government under R. G. Menzies in 1949, there have been repeated reports of discontent among younger members of the Liberal Party at the limitation imposed by the permanent allocation of portfolios to the Country Party. On the other hand, there have been occasions when the financial supporters of the Liberal Party have been able to influence the composition of Cabinet in an even more direct way. By contrast to the ALP, the extra-parliamentary organization of the Liberals is relatively inactive, and one important result has been to give special importance to the finance committee of the party in each state. Such finance committees, whose membership is largely co-opted, became characteristic of the Liberal parties after the strong trend to Labour manifested in federal and state elections in the period 1910-15. During their history these committees have had a variety of names—the Constitutional Union, National Union, Consultative Council, Liberal Union, and Institute of Public Affairs. Their existence, and the allegedly nefarious character of their activities, become public property during internal crises, when dictation by "outside interests" is alleged by dissident groups within the Liberal Party.²⁵ It has been suggested, for example, that the resignation of Hughes in 1923 was

brought about not only by pressure from the Country Party, but also from the National Union, which wanted Bruce as Prime Minister. Previously the National Union had been able to constrain Hughes to include Bruce in his Cabinet, although the latter had been in parliament only two years.

Perhaps the outstanding case was the series of events that led to the emergence of J. A. Lyons as leader of a new anti-Labour party, the United Australia Party, in 1931. After his defection from the Scullin ministry, Lyons at first led a splinter group, but he later became parliamentary leader of the new party in place of J. G. Latham, leader of the Nationalists, who had replaced Bruce when the latter was defeated in the general election of 1929. A number of stories are current about this manoeuvre. Sir Frederic Eggleston, who had been a Nationalist minister in Victoria, describes the National Union as a "background organization", and is clearly referring to this episode when he writes that "on one occasion the leaders of the background organization told the head of a party facing an election, who was supposed to have no popular appeal, that unless he handed over the leadership to someone else, the funds would not be forthcoming . . . the person selected by the organization actually did lead, rather to the misfortune of Australia".²⁶ A similar accusation was made at the time by Page, leader of the Country Party, who blamed the Associated Chambers of Manufactures (Australia's equivalent of the British FBI or the American NAM) for dictating the high tariff policy of the UAP.²⁷ According to a recent account by a former Clerk of the House of Representatives, Lyons was induced to leave the Labour Party by offers to make him leader of a new non-Labour party. These offers emanated from the National Union and the Associated Chambers of Manufactures, with the key role being played by the editor of the Melbourne *Herald*, Sir Keith Murdoch.²⁸

THE COMPOSITION OF THE ÉLITE

The above analysis of influences affecting the composition of the political *élite* has been pursued at some length in order to provide an adequate "setting" for a study of the actual membership of the *élite*. The material that follows is based on two sets of data: a biographical analysis of the 196 ministers who held federal office from the opening of the first federal parliament in 1901 until the general election of 1961, and the results of a postal questionnaire sent to all surviving members of state and federal ministries who held office between 1945 and 1958. Out of 138 questionnaires dispatched, 91 completed ones were returned, 63 from state and 28 from federal ministers. It will be convenient to designate these two groups separately as the "federal"

and "mixed" groups, but for some purposes they will be taken as a composite entity, made up of 243 separate individuals.

We may begin by examining the federal group in terms of the representation of the various states. Geographically speaking, Australia is unbalanced by the concentration of population and economic activity in the south-eastern corner, occupied by the two states of N.S.W. and Victoria. This imbalance is reflected in politics, and the other four states have been concerned to reduce the dominance of the two leading ones by obtaining adequate representation in Cabinet. Party interests have sometimes been overshadowed by this concern. In 1915 a Liberal member of the South Australian parliament protested at the absence of any South Australians in the Hughes Labour ministry. In 1904 the conservative press of Queensland, after expressing its disappointment with Senator Drake, a Queenslander who had been in the first two Liberal ministries, was gratified at the "combateness" of two Labour ministers in the Watson government on behalf of their own state, and in 1929 the Nationalist Premier of Tasmania moved that the state parliament should express its pleasure at the inclusion of J. A. Lyons, formerly Premier of Tasmania, in the Scullin Labour ministry. The preponderance of the two most important states is illustrated by Table 1.²⁹

TABLE 1
Distribution of M.P.s and Ministers, 1901-61

State	Seats in parliament	Ministerial posts
	(%)	(%)
N.S.W.	31	31
Victoria... ..	24	28
Queensland	14	12
South Australia	11.5	11
Western Australia	10	8
Tasmania	9.5	10
	100.0	100.0

Federalism, combined with inter-state rivalry, has produced a fairly even geographical spread. With the exception of Tasmania, however, the more remote states have been under-represented and Victoria correspondingly over-represented. However, there is a striking difference between the parties, as shown by Table 2.

Taken together, the tables show that representation of the various states is much more even in the Labour Party, which may be attributed at least in part to the elective system. However, one remarkable bias produced in Labour ministries is the under-representation of

TABLE 2

State	Liberal and C.P. ministers	Labour ministers
	(%)	(%)
N.S.W.	36	26
Victoria	30	21
Queensland	10	14
South Australia	9	14
Western Australia	8	13
Tasmania	7	11
	100.0 (n-120)	100.0 (n-76)

N.S.W. In the sixty years under review, members from N.S.W. constituencies held 33 per cent. of all Labour seats, as compared with 26 per cent. of ministerial posts in Labour ministries. Western Australia and Tasmania, on the other hand, have had more than their share of ministerial posts in relation to parliamentary seats (13 per cent. as against 10 per cent. in the case of W.A., 11 per cent. as against 9 per cent. in that of Tasmania). In the Liberal and Country Parties, N.S.W. and Victoria are both over-represented by comparison with the smaller states, with Victoria being the more striking example. During the period non-Labour members from Victoria held 29 per cent. of all non-Labour seats in parliament, compared with 34 per cent. of all posts in non-Labour governments. As Victoria has long played an outstanding role within the Liberal Party, which has usually been more united in that state than in N.S.W., its predominance in Cabinet positions is hardly surprising. The choice of Prime Ministers also illustrates the greater spread to be found in the Labour Party. Of its seven Prime Ministers since Federation, three were from N.S.W., two from Queensland, one from Victoria, and one from Western Australia. In the Liberal-Country combination, only one of the nine Prime Ministers has not come from either N.S.W. or Victoria, and this exceptional case (Lyons) was an ex-Labour man.

The most convenient indices for the analysis of differences in social stratification are occupation and education. On this point, information was available for 147 individuals. Altogether 63 state and 85 federal ministers who had held office in this century were covered (Table 3).

It will occasion no surprise that more Labour ministers should be of working-class origin than non-Labour ministers. It is remarkable, nevertheless, that the largest single group among the fathers of Labour ministers is the "commercial and clerical" category, which may be described roughly as "lower-middle class". Twenty of the 89 non-Labour ministers were drawn from the Country Party, and of these 12 were the sons of farmers and graziers. Eight of those classified as "professional and semi-professional" were men who were members of

parliament long enough to make it their major occupation, although some of those listed under other headings had also been politically active. Six of the Labour ministers whose fathers' occupations are given as "other" were in fact orphaned in their early youth or infancy.

TABLE 3

Father's occupation	Total	Liberal-CP	Labour
Rural proprietors	40	29	11
Professional and semi-professional ...	33	22	11
Administrative and business	20	18	2
Commercial and clerical	25	10	15
Manual workers	20	8	12
Other	9	2	7
	147	89	58

Note. The above categories are adapted from those used in the 1947 census of occupations carried out by the Commonwealth Statistician. The category "administrative" includes business managers and proprietors as well as senior government officials, ships' officers, &c.

Without very careful investigation of these cases, it is impossible to say what the significance of this curious fact may be, but its psychological possibilities (a compensatory search for power [or for identity?]) are fascinating.

TABLE 4

Father's occupational group	1947 census	Fathers of business men	Fathers of government officials	Fathers of ministers
	(%)	(%)	(%)	(%)
Rural proprietors	17.9	7	10	23
Professional and semi-professional	3.5	19	16	18.5
Administrative and business	5.6	31	11	9
Commercial and clerical	16.4	28	35	23
Manual workers	47.2	12	22	17.5
Other	9.4	3	6	9
	100.0	100	100	100.0

It is of interest to compare these results with the figures obtained by the same author from studies of business leaders and senior Commonwealth government officials.

On the basis of Table 4 it would appear that the opportunities for upward social mobility between generations are somewhat greater in political life than in the other two spheres. A somewhat different aspect of this question relates to the previous occupations of Cabinet ministers, and here the divergence between the parties is very clear-

TABLE 5

Occupational group	1947 census— all bread- winners (%)	All ministers (%) (n-259)	Liberal- CP (%) (n-148)	Labour (%) (n-101)
Rural proprietors	8.5	21	26	11
Professional and semi-professional	5.2	37	46	26
Administrative and business ...	7.0	16	25	5
Commercial and clerical ...	20.0	8	2	16
Manual workers	47.6	18	1	42
Other	11.7	...	...	...
	100.0	100	100	100

Note. This table gives particulars of a total of 259 ministers—63 state and 196 federal—who held office from between 1901 and 1961. The 1947 census is used for purposes of comparison.

cut, as shown by Table 5. It may be noted that whereas the first column of figures in Table 4 refers only to *male* breadwinners, in Table 5 we are concerned with all breadwinners.

Before drawing conclusions from these figures, some comments should be made. The "manual workers" in the Labour Party were nearly all trade union officials, as were some of the white-collar workers in the "commercial and clerical" category. Altogether 48 of the 101 Labour ministers were trade union officials before entering parliament, and most of these were full-time officials. The majority of them had held one of the leading offices at state or federal level; 12 of the federal ministers had been national president or secretary of their union. Another feature is the number of lawyers in the "professional" group. Out of 96 individuals, no fewer than 50 were lawyers, 36 of them in the non-Labour parties, 14 in the Labour party. However, only 3 of the Labour men had gone straight into the legal profession after completing their education; the rest had qualified as lawyers by part-time study while working as trade union officials or clerical employees. Some of the trade union officials, therefore, are included in the professional group, and not classified as manual workers.

It may be thought that virtually all the Country Party ministers have been rural proprietors. In fact, more than one-third came from non-rural occupations, including three lawyers. Page, the first federal leader, was a doctor, and his successor, Fadden, an accountant. One-half of the "rural proprietors" in the non-Labour group have been Liberals, indicating that the political importance of the farming community spans all the parties. The Labour Party²⁰ has always included a sizeable farming group in the federal parliamentary caucus, whose actual strength has oscillated in response to Labour's popularity in the wheat-growing areas. In 1941 the proportion of farmers in the parlia-

mentary Labour Party reached a peak of 18 per cent., after a decade of agricultural depression. The division of rural proprietors among the three parties reflects the divisions within the rural community itself, but it is also politically advantageous to farmers and graziers aspiring to office. The two main parties are constantly interested in weakening the CP's hold on the rural vote, and one way is to offer ministerial posts to members from rural constituencies.

The other group whose numerical representation in Cabinet is far greater than its strength in society at large is that composed of the professional men. In this respect Australia conforms to the results found in Britain, France, Germany, and the United States. In the preponderance of lawyers, particularly, it resembles the U.S.A. There are, nevertheless, two distinctive features. One is the extent to which the prevailing philosophy that parties should act, when in power, as a "reflex" of the interest groups that support them, affects the representation of these groups in the Cabinet; the other is the sharpness of the cleavage between the two parties in terms of Cabinet personnel. This distinction is made even clearer if we compare the parliamentary party and Cabinet, in terms of occupational breakdown. In non-Labour Cabinets the proportion of professional men is far higher than it is among non-Labour parliamentarians—a fact which is on all fours with the situation in other countries. In the federal Cabinet that was in office at the beginning of 1951, 11 out of the 19 members were professional men, 5 of them lawyers. Another 5 ministers were businessmen, and the remaining 4 were farmers or graziers. As against this, professional men formed 40 per cent. of the parliamentary party, while farmers and graziers accounted for 37 per cent. In the federal parliamentary Labour Party from 1901 to 1951, 41 per cent. of members were manual workers, compared with 48 per cent. of ministers; 20 per cent. of members were professional men, compared with 24 per cent. of ministers. On the other hand, it should be noticed that the situation inside the Labour Party has changed since Federation. As Crisp shows, the proportion of manual workers has fallen steadily, and since the early 1930's has been less than half. Side by side with this decline has been a fall in the number of trade union officials, which in 1901 was 72 per cent., but fell below 50 per cent. in 1917 and has declined slowly since then. Before 1941 the proportion of white-collar workers in the parliamentary party was always less than 10 per cent., but it began to rise at the 1943 election, and by 1951 it had reached 28 per cent. The next federal Labour government will undoubtedly be affected by this remarkable trend, which shows every sign of continuing. (The election of a university lecturer to a federal Labour seat in 1955 may perhaps be regarded as a portent.)

The effect of prolonged terms of office also has the effect of diluting the manual worker and trade union element in Labour governments. In the New South Wales Labour Government appointed in 1941, 5

members of the original ministry of 15 were prominent union officials, and 5 others had some union background. When the government was defeated in 1965, an additional 20 ministers had held office, only one of whom had been a union official of any importance.

TABLE 6

Educational level attained					All ministers % n-259	Liberal-CP % n-148	Labour % n-111
Primary	...	...	...	...	24	7	51
Secondary	...	...	...	...	31	34	25
University	...	...	...	...	26	36	10
Other Tertiary	...	...	...	...	11	13	9
N/A	...	...	...	...	8	10	5
					100	100	100

Not only the educational level but also the type of school attended provides a sharp differentiation. At the primary level, this is largely a distinction between state and Catholic schools. The proportion of Catholics among Labour men is reflected in the fact that 36 of the 111 Labour ministers had attended Catholic primary schools, out of 39 who could positively be identified as Catholics. Out of 76 Labour ministers who held Federal office between 1904 and 1949, 25 were Catholics (as against 36 Protestants, 3 freethinkers, and 12 for whom no information was available).

At the secondary level, where information was available for all but 12, we find that 85 of the 148 non-Labour ministers had been educated at private secondary schools. Sixty-two of these had attended schools affiliated with the Headmasters' Conference of Australia, among which a handful of the most important ones played an outstanding role. Out of the 62, 22 were educated at the four leading "Associated Public" schools in Victoria—Melbourne Grammar School (8), Scotch College (6), Wesley College (4), Geelong Grammar School (4). Another 14 had attended a group of leading Sydney schools—Sydney Grammar School (7), Sydney C.E.G.S. or "Shore" (3), Newington College (2), The King's School (2). Altogether, 11 leading private schools accounted for 42 men in the non-Labour group—Melbourne Grammar School, Sydney Grammar School, Scotch College, Brisbane Grammar School, Prince Alfred College (Adelaide), Geelong Grammar School, Wesley College, Sydney C.E.G.S., Launceston Grammar School, The King's School, and Newington College—in descending order of numerical importance.

Among Labour ministers, 16 had been educated at Catholic secondary schools, six of them affiliated with the Headmasters' Conference.

Another four had attended Protestant schools of this type. Most of the remainder attended state high schools.

In Federal politics, these social differences have shown considerable stability over the 60-year period. The year 1923 provides the most convenient point of division for purposes of contrast. A few changes may nevertheless be noted. The earlier preponderance of New South Wales and Victoria has changed in more ways than one. Up to 1923, 42 out of 75 ministers had come from the two largest states, 22 from Victoria and 20 from New South Wales. From 1923 to 1961, the figures were 74 out of 121—42 from New South Wales, 32 from Victoria. Mobility between state and federal parliaments was markedly less after 1923 and has continued to decline. The representations of farmers and graziers in both Cabinet and parliament rose sharply in response to the emergence of the Country Party as a permanent third party (it rose by only a negligible 2 per cent. among ministers of the other two parties). The proportion of Catholics in Labour ministries rose significantly as a result of the great schism over conscription in 1916. In the earlier period, 19 out of 30 Labour ministers were Protestants, and four were Catholics; no information was available about the other seven. In the latter period, 21 out of the 46 were Catholics, 17 were Protestants, three were freethinkers, and information was unavailable about five. In the three Scullin Cabinets (1929-32), there were 12 Catholics out of 19 ministers, and in the Chifley government of 1946 there were 11 out of 19. There was a general rise in the standard of education, manifested principally by a threefold increase in the numbers of men educated at state high schools. A training in the law ceased to be the only form of tertiary education represented among ministers. Before 1923, there had been 28 lawyers in various Cabinets. From 1923 to 1961, there were 24 lawyers, 14 other university graduates, and 15 other men with some form of tertiary education who sat in Cabinet. The rise of educational standards coincides with a decline in working-class representation in the parliamentary Labour party.

The last point to be mentioned is an oddity. Among the professional men who have attained Cabinet rank, medical men have been remarkably prominent. Since 1920, 10 doctors and 1 dentist have been ministers, mostly as incumbents of the Health portfolio. One of these (Page) was Prime Minister for a brief period, and another was Premier of Victoria. Women, on the other hand, have not figured prominently. Although universal adult suffrage has operated in all Australian parliaments since the beginning of the century, the first woman member of parliament was not elected until 1925, and only three women have held Cabinet office, all of them since the Second World War. In political life, as in business, women have not made use of the opportunities that are, theoretically at least, open to them.

part three | PARLIAMENT

Cabinet, secret but important, has been the subject of a major study by Professor Sol Encel,¹ but Parliament, open as it is to the public gaze with (almost) every word recorded and available for the researcher, still lacks a book-length account. The novice might be intimidated by the complexities of formal procedures, but one suspects that experienced political scientists have been diverted by a hasty assumption of the relative unimportance of parliamentary institutions. The "decline of Parliament" has been lamented in Australia at least as frequently as in Britain, yet the detailed programmes for reform which Lords and Commons have occasioned are yet to appear. No Member has been more energetic in his advocacy of improvement than Mr. H. B. Turner, and his history of "The Foreign Affairs Committee of the Australian Parliament" relates to one means of increasing the effectiveness of Parliament through specialized committees.

Professor Anthony Fusaro examines the significance of the Senate, never the States' House intended and only fitfully the House of Review it might have been. Professors Gordon Reid and Geoffrey Bolton compare Australian procedures and practices with the British model which retains a symbolic importance for Parliament that it has lost for Cabinet and political parties. If Parliamentary debates are artificial because party loyalty determines the result, it is still necessary to know what happens before particular pieces of legislation enter the final, formal steps to enactment, and Mr. J. Monro provides an insider's account of "The Preparation of a Draft Bill".

New techniques for the study of legislative behaviour have been developed in the United States, and are now being applied in Australia. In a few years they may have borne fruit, but in the meantime attention is concentrated on institutions and procedures.

7 | AUSTRALIA'S COMMONWEALTH PARLIAMENT AND THE "WESTMINSTER MODEL"

G. S. Reid

I

All seven units of government in Australia are based on the Westminster model. The model was first used in the design of constitutions for five of the Australian colonies in the 1850s, for Western Australia in 1890, and finally for the federal compact in 1901. For Australians it was the *sine qua non* of internal self-government. That was to be expected. Not simply as a result of the influence of British administration and defence power, but because the people of the several colonies were almost wholly British in origin, had close social ties with the British Isles, were familiar with its traditions, were English speaking, and attained self-government through peaceful means. Moreover, by mid-century, their political leaders in most cases negotiated with a co-operative Whitehall acting under the shadow of a revolutionary Europe and emergent "democracy".

When Lieutenant Governor Sir William Denison opened the first Parliament of the Colony of New South Wales in 1856 he explained that the new arrangements for government were based "on the principal characteristics of the British Constitution". The model, presumably, was politically acceptable. A constitution based upon it gave the impression of a system of self-government both new and old. It satisfied the pressures for local autonomy and the fears of instability through inexperience. In New South Wales, for example, there was a bi-cameral Parliament with one House wholly elected and the government, drawn from the Parliament, was accountable to the elected House. For Australians that was the British system. Ultimately it became the common denominator of all seven units of government.

More direct political motives can be discerned in the constitutional arrangements of the 1850s. Most of the leaders of the day were pastoralists and they saw to it that their interests were not neglected.

Provisions such as a property qualified franchise, plural voting, no votes for women, a nominated upper house, and the requirement of a two-thirds majority for constitutional amendments, were used selectively to keep the Parliaments within their control. Subsequently there were political conflicts about these provisions. In their defence there were many attempts to justify them as part of, or necessary to preserve, the British-type Constitution (or what today we would call the Westminster model). Most, however, were abolished before the end of the century—often in advance of Westminster—but their defence illustrated a use to which the Westminster model has been put in Australian government. It has frequently been injected, in a prescriptive sense, into issues relating to the machinery of government not simply from motives of institutional nostalgia or from considerations of the efficacy of the Westminster methods, but from motives that can only be called political.

Whatever the motives may have been, familiarity with his surroundings was what impressed Anthony Trollope when he visited Australia and New Zealand in the 1870s and attended the sittings of several of the Parliaments. “Kings, Lords and Commons” he wrote, “prevail in the colonies as they do at home, with some variations”.¹ He went on “In all small forms and ways the imitations of our parliamentary practice is generally exact. The ministers sit on the right of the Speaker, with their staunch supporters behind them. The Opposition occupies the opposite benches and there are cross benches or benches below the gangway, for those whose party obligations are less binding”.² Most visitors familiar with United Kingdom arrangements report in the same vein; they comment on the outward manifestations of Westminster—the ceremony, the familiar disposition of furniture, the existence of the office of Leader of the Opposition, and the visible overlap of the Executive and Legislature.

It is widely recognised nowadays that the visible, or even the legal, features of a system of government in any social environment give an inadequate understanding of its working. It is necessary, somehow, to penetrate the outward appearances and to measure the contribution to the process of government made by the human material working within it. For this reason I suggest that Trollope-type comments are deficient; and I think it is the same with the expression “Westminster model”. We know that the forms of government in the Australian colonies in the late nineteenth century resembled the forms at Westminster; but whether they functioned in the same way is a question that students, so far, have not really tried to answer.

II

We can say, however, that by the end of the nineteenth century, when the time came to prepare for the seventh unit of government in Australia, there was no shortage of people who could claim extensive

experience in Australian politics and Australian public administration. The popular attitudes of experience in government and political self-sufficiency were the mainstays of the Australian nationalism that forced the political pace of the period. The new constitution's provision for "an indissoluble federal Commonwealth" exhibits the collective self-confidence. It is important to remember that the federal arrangement of 1901 grew out of local political action and re-action. It was in no sense imposed. The political institutions it produced were the product of social forces emerging from self-governing communities. The design of the Constitution and the terms of reference for the new Parliament were hammered out at hard fought constitutional conventions in Sydney, Adelaide, and Melbourne, twelve thousand miles from Whitehall. It is true that the Constitution was finally enshrined in an Act of the Imperial Parliament but only after its approval by a majority vote in an Australian-wide referendum.

Although the architects of the Constitution turned to the United States for the names of their two parliamentary assemblies—Senate and House of Representatives—they gave the Constitution a preponderance of Westminster-Whitehall type provisions. This was not simply in obeisance to the Imperial Parliament; it was an acknowledgment of the accepted utility of these provisions in the government of the several States. They included, for example, the fundamental provision that "No minister of State shall hold office for a longer period than three months unless he is or becomes a Senator or member of the House of Representatives"; they included two basic British Constitution-type provisions that "no money shall be drawn from the Treasury except under appropriation made by law", and that the Parliament is autonomous in the declaration of its "powers, privileges and immunities" (until so declared, they remain those of the House of Commons at the establishment of the Commonwealth); and they gave the Constitution the negative characteristic for which Westminster-modelled documents are renowned—the omission of reference to political parties, an Opposition, or a Prime Minister.

The Constitution also established the Judicial and the Executive arms of government. There was a major departure from the British Constitution in the limitation of the Parliament's sovereignty, by the enumeration of its powers, by the High Court's jurisdiction over challenges to the constitutionality of Commonwealth Acts, and the provision for appeals to the United Kingdom's Privy Council. There was also the referendum provision for constitutional amendment. But with the Executive, on the other hand, the Westminster-Whitehall relations were followed closely—that is, after one makes allowance for the provisions concerning Commonwealth-State relations.

It is evident, therefore, that any claim that the Commonwealth Constitution is based on the Westminster model needs, in almost the same breath, some important qualifications. The same can be said

about any of the institutions of government that the Constitution provided. Let us consider the necessary qualifications in the case of the Commonwealth Parliament.

The Parliament of the Commonwealth was planned as a national representative institution—the legislature. But in its sixty-odd years it has become more than an organ for legislation, or for financial control, check, enquiry, etc. Those are the conventional roles allotted to it. It is something else. Ultimately housed in a large and impressive building in the national capital (an even larger building is now mooted) it has received widespread publicity, particularly through the media of mass communication. There has been an overt attempt by governments to develop for it a symbolic quality. The Parliament is presented widely as a symbol of national unity, of representative government, and of democracy, and also to symbolise the nation's links with the United Kingdom and the Crown. These facets of Parliament are impressed upon the minds of schoolchildren, they are meant to engender a sense of security, an assurance of law and order, and what has been the Australian conception of ties with the British Commonwealth. For this role the Westminster model has been copied extensively. There is almost a complete panoply of Westminster-type ceremony, furnishings, and parliamentary dress. (It is only the ceremonial function of Parliament that is televised.) In the Parliament's history both parties have fostered this institutional image building. The conservative parties have developed it most, if only because they have had more opportunity. I should like to emphasise, however, that this function is not simply a matter of preserving links with Britain. The parliamentary symbol is *an instrument of government*, and it is the instrument, as well as the trappings, that Australian governments have copied from Westminster.

It was not, for example, merely coincidental that the Commonwealth government claimed an increased recognition in Australian politics and took a more direct role in economic affairs immediately after the Commonwealth Parliament moved from its borrowed premises in Melbourne in 1927 to the then imposing Parliament House in Canberra. It was when the publicity of the transfer had subsided—the ceremony for the opening of the doors by the Duke of York after a nation-wide tour, the minting of "Parliament House" coinage, and the issue of stamps portraying the new Parliament—that one of the few, and the most important, of the amendments yet made to the Constitution was carried in all states by referendum (1928). (The Commonwealth Government thereby received the power to manage the debts of the States and to control all new public borrowings.) In Australia there is increasing concentration on this kind of parliamentary image building.

The main purpose of this article, however, is to consider the arrangements for the political process within the Parliament and to try

to relate them to those of the Westminster model. For this it will be best to comment briefly on each House, and then consider some of the categories of parliamentary activity.

III

THE SENATE

This is a singular institution in Australian government. On the basis of nineteenth century liberal bi-cameralist philosophy it can be seen as a house of review and a vague reflection of the House of Lords; that is, so long as we acknowledge its elective basis and the absence of the Parliament Acts (which were not in existence when the Senate was created). The Senate is the price of Australian federalism—the institutional safeguard that the States demanded for the surrender of enumerated powers to a new central authority. Equal representation in a Senate of all the original States and the provision for it to be half the numerical size of the House of Representatives were seen as the means for protecting the interests of States small in population from the weight of numbers more populous States enjoyed in the lower House. But its protagonists, by winning for the Senate substantial powers, denied it its very purpose. They made it too rich a prize to escape the attention of nationally-based political parties. In consequence, elected Senators and candidates aspiring to election became prey to party blandishments and party dictates. Nowadays the cost and the trouble of Senate control tests the finances and the patience of parties. The Labor Party now wish it death; and whenever non-Labor governments lose their grasp on it they become equally malevolent. The final say, fortunately, is with the wider electorate.

The Senate is said to have a “concurrent” power in all legislation. “The legislative power of the Commonwealth” runs the Constitution, “shall be vested in . . . the Queen, the Senate and the House of Representatives”. A “concurrent” power, of course, is a euphemism for a “veto” power, and in the field of national government this is something to be reckoned with. As well, the Senate can amend any legislative proposal providing its amendments do not result in an increased charge upon the citizen (a tax) or on public revenue (expenditure). In these cases it can merely “request” amendments. But when a “request” is backed by a power of veto it is easy to see who holds the upper hand. The Senate is a powerful upper chamber. It is true that it cannot initiate financial legislation (this seems to be the main constitutional—as distinct from political—influence in keeping the Ministry answerable in the lower House) but this limitation has been of little consequence to its ultimate power. It has demanded financial equality and it has been given it; it has won representation on the Public

Accounts Committee; it receives the Budget Speech and the Estimates simultaneously with the House of Representatives, and it begins its scrutiny of them without waiting for them to be “transmitted” from the House. Moreover, it has the power under the Constitution to bring the lower House to the point of dissolution—though this is tempered by the necessity of seeing itself dissolved as well. The Senate, therefore, provides a substantial variation from the Westminster model. Unless an Australian government controls the Senate it is a government in name only.

The unique nature of the Senate, its frequent use of its powers, and its insistence upon the recognition of its equal status, means that consideration of it intrudes into almost every facet of parliamentary activity. It stands in contrast to the House of Representatives for it has not been dominated by the government to the same extent. Indeed, for those who see the role of representative institutions as offering restraint to the excesses of governmental authority the Senate must be the main hope in Australia.

THE HOUSE OF REPRESENTATIVES

The lower House in the Commonwealth Parliament is well and truly under the thumb of the government. By political usage governments consider themselves responsible to it and, as at Westminster, the parrot-cry “responsibility” has made constructive parliamentary reform impossible.

When the House first met on 9 May 1901 its seventy-five members (now 124) were faced with the task of determining procedural rules to guide their deliberations. These were essential to provide the means for the use of parliamentary power and, contrary to general belief, were highly political. It is at the point of the original determination of procedure that most Commonwealth legislatures fall back on the wisdom of Westminster. But not the House of Representatives in 1901. The Labor party had sixteen members on the cross benches holding the balance of power between thirty-two Protectionists (in office) and twenty-seven Freetraders. Agreement about the necessary limitation of debate was virtually impossible and “temporary” rules had to be adopted which the Prime Minister (Edmund Barton) claimed were selected “from what appeared to be the most valuable and reasonable rules in the various legislative assemblies (i.e. in the States) without being too much bound to the strict terms of any one”. Rejecting Westminster as a source of procedural criteria, he claimed “If for instance we adopt as a guide for our temporary standing orders those of the House of Commons we should import into our procedure the most rigorous of the rules of that House, including those of the closure of debate and dealing with disorderly members”.³ But liberty was short-

lived. When the Labor representatives backed the Liberals (erstwhile Protectionists) in government in 1905 the Prime Minister (Alfred Deakin) moved for the incorporation of the House of Commons (1882) closure rule into the Standing Orders. He endured a seven day debate (one sitting continued through three days) before the conservative Opposition submitted; but Deakin won for himself and his successors in government the instrument of absolute control over the House. But this was not enough. In 1912 came the original proposal to impose time limits on members' speeches (as yet not acceptable at Westminster) and then in 1918 the House gave approval for the use of the "guillotine" procedure (adopted at Westminster in 1887) making more finite the degree of control already enjoyed.

In spite of the early professions of procedural self-sufficiency resort to the rulings of the House of Commons was inescapable—the procedures copied from the States were in fact the methods of Westminster of the 1850s. May's *Parliamentary Practice* was never far from the Speaker's hand. The so-called "temporary" Standing Orders (which were not made permanent until 1950) included an admirable blend of mandatory and permissive ties to Westminster. The first Order read:

In all cases not provided for hereinafter, or by Sessional or other Orders, resort shall be had to the practice of the Common House of the Imperial Parliament of Great Britain and Ireland in force at the time of the adoption of the Orders, which shall be followed *as far as they can be applied* to the proceedings of the House of Representatives.

The words I have italicised were sufficient to make the Order ambiguous. It meant that Westminster procedure was to be used if convenient—but convenient to whom? From the first it was clear that the policy of governments was to be procedural eclecticism, and it has prevailed since. House of Commons procedure has usually been acceptable when it bolsters the power of the government over the House, otherwise the Ministry's claim is that "each Parliament, of course, has its own way to make and its own problems to resolve".⁴ By this means the Westminster model has provided governments with a convenient procedural foil to fend off threatened impediments to the official will from within the House, while continuing to pose as paragons of Westminster procedural virtue. The mysteries of Westminster have frequently been invoked to provide a technical smoke screen behind which governments have escaped the rigours of the political battle.

IV

The escape routes will best be illustrated by discussing the business of the House under three headings (making reference to the Senate where appropriate), Finance, Legislation, and Restraint and Enquiry.

FINANCE

It is in this field more than in any other that the Westminster model has been coveted. The myth of parliamentary *control* of expenditure still lingers, paradoxically, to every government's advantage. Governments have embraced the Westminster debating rules for financial business with alacrity for they take from the members of the House the freedom for legislative and political initiative that the Constitution left them. Section 56 provided that no proposed law for the expenditure of public money should be passed unless it was the subject of a recommendation from the Governor-General. This gave scope for the introduction of expenditure proposals by private members (and the Opposition) and it did not restrict taxation initiative in any way (it was planned that members should be free to initiate proposals on the tariff). At the constitutional conventions it was thought that even the expression decided upon "greatly enhances the power and influence of the executive".⁵ But parliamentary attitudes and the functions of government have changed and governments have become increasingly sensitive about political ideas other than their own, particularly in Parliament, and more particularly if they are likely to be challenged to a division. Little by little through procedural interpretation they have pushed the private member and the official Opposition below decks in finance. In the new and reformed Standing Orders, adopted in May 1963, the House codified the procedural stage it had reached, and, going beyond Westminster, surrendered to the Ministry absolute monopoly rights for the initiation of increased expenditure and increased taxation proposals, and all amendments to bills that can be interpreted to have that effect. Thus the House surrendered a large area of political initiative which in these days of cohesive political parties is a self-denial not completely necessary. As a result of these changes Senators, still free to move "requests" to increase a tax or expenditure, enjoy greater legislative freedom in finance than members of the House of Representatives.

Associated with this restrictive trend has been the perpetuation of the myth that it is the House's responsibility—but in no other form than a Committee of the Whole—to scrutinise the minute detail of the expenditure estimates, and not to discuss wider policy issues. The political frustration this provoked in financial debates made painful reading. With the assistance of rules laid down in Westminster in the 1850s (still expressed in May's *Parliamentary Practice*) and the backing of the closure and guillotine procedures, financial debates were reduced to a farce and governments escaped scot free. But since 1956 a change has been made giving members freedom to mention policy issues in estimates debates (this was the attitude the House of Commons took in 1896) and the situation has improved to a degree.

Governments have refused, however, to place "allotted" supply days at the disposal of the Opposition.

At Westminster the House of Commons, in early recognition of its financial deficiencies as a whole House, found alternative organs of inquiry. The existence of these—the Select Committee of Public Accounts (1861) and the Select Committee on Estimates (1912)—was embarrassing to Australian governments otherwise ready to adopt Commons procedures. When the Estimates Committee was established, giving the Commons two financial committees, there was increased pressure for Australia to have one. A choice was made of the Public Accounts Committee. Established in 1913 by statute, which the Senate refused to pass until it was given representation, the Committee did twenty years of good work. But when the economic depression fell it was abolished (1932) as "an economy measure". It was rehabilitated in 1951, and still operates, but faced with an enormous and growing field of public expenditure, a small staff, and a government party chairman, it has declining influence.

There is no Estimates Committee. Suggestions made in 1913 for its establishment met with short and indignant shrift. "No government would degrade themselves to that extent" said a Labor member in Opposition, "no government would give up their authority to the extent of permitting a Committee to interfere with their estimates".⁶ There have been subsequent suggestions for financial reform but however worthy they have fallen on stony ground.

Mr. R. G. (later Sir Robert) Menzies in 1929 thought that the Parliament needed "a Joint Committee of both Houses . . . to view financial proposals both prospectively and retrospectively".⁷ Mr. Harold Holt (the present Treasurer) was chairman of the Joint Committee on War Expenditure that reported in 1945 that "a Joint Committee of Parliament clothed with adequate powers and functions . . . is the best means [for] the future control of national expenditure".⁸ But the fiery zeal of parliamentary reformers runs cold on the Treasury benches and there is little hope of constructive reform in the near future.

LEGISLATION

Much the same pattern of behaviour has emerged with non-financial legislation. The basic Westminster procedures, providing for three readings and a committee stage, have been followed and Commons' precedents have been observed to control debate. There have been persistent suggestions for the establishment of small standing committees for legislative scrutiny, of the kind used at Westminster since 1882, but these have met with equally persistent refusal by all governments. Instead, the House has been made to persevere with the Committee of the Whole—the procedural arrangement that Bagehot saw in England in the 1860s as "one of the most helpless exhi-

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bitions of helpless ingenuity and wasted mind.”⁹ When W. A. Holman (a former Premier of New South Wales) gave evidence to a Senate Select Committee in 1930 on the advisability of creating some standing committees, he complained that “Parliamentary methods in Australia are still primitive. Division of function and delegation of authority are largely unknown. The original idea of one large council dealing successively with each public question still prevails . . .”¹⁰ If he could make the same claim today it would have equal validity.

So fruitless now is the normal legislative process for the consideration of matters of detail in legislation that members of the House of Representatives seldom bother to make other than general contributions. The contrast with Westminster impressed Sir Gilbert (later Lord) Campion when he visited Australia in 1948. He recorded that “the committee stage of a bill in the Australian House of Representatives is often reduced to a tedious formality, which few members of the majority take the trouble to sit through, because it is known that every amendment moved by the Opposition will be voted down without consideration of its merits”.¹¹

I have extracted the figures from the record of the 22nd Parliament (1956-58) in an attempt to make a measure of the attention paid to the detail of bills at their committee stage. (I was interested when I did this (1959) to test Professor J. D. B. Miller’s support of the thesis that members are “concerned so much with the valleys of detail in legislation, they do not often enough lift their eyes to the hills of principle”.¹²) In summary the figures are:

312 bills were referred to the Committee of the Whole for consideration

235 bills (75% passed without one word of Committee debate being offered

33 bills (11%) were considered in Committee but not in detail, the bills being “taken as a whole”

44 bills (14%) received detailed Committee attention—the Opposition moved amendments to 21 of them.

The effect of parliamentary broadcasting must be recognised in this (see below) and the fact that at the time the Opposition was divided and consequently weakened, (though less so than in 1954-55). There would be a slight improvement today but not to any significant degree. Much the same attitude prevails in the Senate.

I think it is significant that in the new Standing Orders adopted in May 1963 provision was made, without comment from members, that the House without notice, but by leave of the members present, may bypass the committee stage of any bill, i.e. proceed from the second reading to the third reading “forthwith”.¹³ The dangers in a provision of this kind are obvious but it is an acknowledgment of the change in the legislative process and of the degree to which the whole parlia-

mentary programme today is left for the management of the party leaders.

It is evident that in the Commonwealth Parliament governments are not prepared to foster the legislative capacities of parliamentarians. Yet few members of Parliament in Australia would be prepared to admit that they are no longer "legislators". There is a need for the clarification of this position for it is the basis of much confusion about Parliament. Sir Edward Fellows told the House of Commons Select Committee on Procedure in 1958 that "I am convinced that sooner or later the House of Commons will have to approach legislation from the angle that Parliament lays down very general principles and that it is the business of the Executive to administer the law inside these principles". He agreed, however, that the House was not yet ready to accept such a delegation "of its detailed legislative power".¹⁴ In Australia, on the other hand, the delegation appears to have been made but the members are not ready to admit it.

RESTRAINT AND ENQUIRY

Parliamentary question time at Westminster would be the most widely recognised method by which the Executive is from day to day accountable to the representative assembly. A version of the procedure has been established in the Commonwealth Parliament but, without a comparable method of supplementary questions, it is so truncated as to restrict its intended effectiveness. Nonetheless the restrictive Westminster rules as expressed in May are applied with vigour. Members may ask questions without notice and they receive answers unprepared (or allegedly so) and sometimes ill-informed. And without the supplementary enquiry such answers can often be evasive. Questions on notice are used extensively and are more profitable. They extract a wide range of valuable information. But on Westminster precedents Ministers insist that they should not be examined on matters of policy (the very commodity the House should exploit) and often "policy" gets a broad definition. In addition to questions there is the full range of Westminster-type procedure such as Address-in-reply debates, Discussions on Matters of Urgency (widely used), adjournment motions, motions of no confidence, private members' motions and, as at Westminster, methods which permit the success of very few private members' bills.

There are some interesting departures from Westminster in Select Committee arrangements for which credit for originality should be given. After Lord Hewart's *The New Despotism* the Senate established in 1932 by its own Standing Order a Standing Committee on Regulations and Ordinances (i.e. delegated legislation). Seven Senators strong, the government providing both the Chairman and the majority, the com-

mittee languished during its early years. It did, however, have a twelve-year start on its counterpart in the House of Commons. More recently, helped by a strong Chairman and a persistent member, it has issued several admonitions to the government. Reports on such subjects as "Import licensing by regulation", "the Ordinance making powers of the Legislative Councils of the Territories", and "the unusually wide regulation-making power in legislation" have all shown the government to be ultra sensitive to check. There have been lively debates on its reports and, with the committee centred in the Senate, the government, so far, has been prepared to condone its non-conformity. Its design has been copied in South Australia, and Victoria.

There is also a Joint Committee on Public Works. First established in Victoria and New South Wales in the 1870s, it gave representatives an institution to which they could divert constituency pressure for local works development. It also gave governments a rational means of assessing the merits of the multiplicity of public works proposals emerging from a society dependent upon public development. The Commonwealth Committee was established in 1913 when the Liberal Prime Minister, Joseph Cook, considered that "the methods of conducting enquiries on public works policy are crude, inefficient, and altogether inadequate for the purpose of securing the taxpayer against loss and waste".¹⁵ It now has a membership of three Senators and six Representatives and appoints a chairman from its government majority. Its interests are confined to civil works over which (except for 1932-36) it has exercised a continuing scrutiny. Work that will cost more than £250,000 cannot be begun without some formal reference of the project being made to it.

A more controversial committee is the Joint Committee on Foreign Affairs. This was first established in 1951 and the Opposition refuses to nominate members to it. The Committee lives at the whim of the Minister for External Affairs who makes available to it information "he may consider desirable"; it sits *in camera* and reports to the Minister (informing Parliament that it has reported); it must inform the Minister if it calls for witnesses and must have his consent to call for documents; and all its evidence is confidential. It has been called "a cosy study circle" and receives a fair share of criticism from the Opposition side. It is not difficult to be sympathetic with the critics for, however much they hunger after the confidences of international politics, there would be little comfort to be fed them by the Minister and then to live with sealed lips thereafter.

CONCLUSIONS

All this suggests that, as a result of the influence of party, the strength of the Executive's control of Parliament is the principal characteristic

of the Australian scene. The difference from Westminster in this is simply one of degree. If the Westminster model produces strong government, and that is one of its attributes, we cannot very well expect a strong Parliament. What is curious about the Executive's power in Australia is the means by which it has been attained.

The eclectic technique in procedure and the political motives in fostering the notion of the Westminster model have been mentioned and may well be paralleled wherever the system has been transplanted. But procedural eclecticism might also have been used to the advantage of the institution. Members determine their own procedures: since backbenchers outnumber frontbenchers, why should the front bench win? It is evident that something in addition to the sheer force of numbers operates. In Australia there are one or two notable techniques.

The first is the practice of making the office of Speaker (and the President of the Senate) a party prize. This has had a profound effect upon parliamentary development. While there is a great deal of mythology about the independence of the Speaker at Westminster, he does not face the political sanctions that confront his counterpart in Australia. There, all semblance of subtlety is shunned. The Speaker is expected to start and finish a party man. A professing non-party Speaker would be an oddity (e.g. Mr. Speaker Cameron, 1950-56). For Australian politicians there are no neutral men.

When Speaker Sir Littleton Groom declined to vote in Committee to save the Bruce-Page Government in 1929 he was pursued by his own party into his electorate, denied party endorsement, and a party nominee was endorsed against him. He lost. Even in normal circumstances the Speaker is freely opposed at elections.

The present Speaker (Sir John McLeay) is the most popular the House has had. After the election of 1960 he helped to maintain the slender majority of the Menzies' Government, either by his casting vote or his vote in committee divisions. I have not seen one word of complaint against his acts. He was expected, on both sides, to back his party. Assured of this the Prime Minister exclaimed that he had never felt so secure in Parliament as he has with a majority of one. The election of 1963 was not provoked by Parliament's instability.

Bearing in mind that the Chairman of Committees breathes the same political air as the Speaker, it is not difficult to interpret the procedural rulings which have, on balance, over the years considerably bolstered the governmental power.

Secondly, and accruing from the link between government and Speaker, has been the physical take-over of the Commonwealth Parliamentary building by the Executive. Canberra's Whitehall has conquered the Houses of Parliament and this has coloured the attitudes of officials towards the institution. The position has best been put by a Clerk of the House who held a deep concern for the implications of

the trend. "Parliament House", he said, "is nothing more than a large government secretariat. Ministers do not work in their departments. They occupy rooms round the chamber of the House with their staffs, while the ordinary members share rooms in the distant wings."¹⁶ The situation he described has persisted in spite of new and large administrative buildings in the national capital. It is difficult to see that it will ever change. In this respect the fusion in Canberra is virtually complete.

Finally, there is the effect of parliamentary broadcasting. Introduced by a Labor government in 1946 out of dissatisfaction with the reporting of Parliament by the Australian press, and stemming from Australia's lack of nationally distributed newspapers, it has changed the whole ethos of Australian parliamentary life. Undoubtedly members now speak to their electorates. "I say to the Australian people" is as common a preface as "Mr. Speaker".

Some responsibility for the reluctance to dwell on matters of detail must be given to broadcasting—to members it is policy, not administration, that will win votes. At the same time no alternative organs of parliamentary scrutiny have been established. There have been sporadic demands for them but they have lacked sufficient strength to command governmental attention. The question period provides the most popular broadcasting material (it is re-broadcast each evening after a sitting and after editing). The knowledge of public interest in it promotes members' participation, but it also encourages an extreme caution on the part of the government towards reforms that would increase its effectiveness.

From the results of a Gallup Poll in 1957 it was asserted that 33 per cent of people had listened to Parliament during the preceding month—8 per cent listened for more than one hour. Obviously, that is enough to keep the generalities flowing. If Parliament is the forum of the nation, then parliamentary broadcasting is an admirable medium for bringing it closer to the electorate, to promote political thinking and to foster political education. I consider it essential. I consider it has achieved much, but I also believe that it has changed the whole concept of the Commonwealth Parliament.

8 | THE AUSTRALIAN SENATE AS A HOUSE OF REVIEW: ANOTHER LOOK

Anthony Fusaro

For many years, the Australian senate has been the subject of serious debate regarding its usefulness as a house of review. The same arguments, pro and con, appear repeatedly. As the matter is one of current interest, it would seem appropriate to take another look at the role of the upper house and to re-evaluate its record as a reviewing chamber.

Naturally, it will not be possible in this brief study to consider in detail every case in which the senate has changed or attempted to change legislation sent to it from the lower house. Thus, emphasis will be given to those cases which seem to be particularly good illustrations, either because of their interesting or controversial nature. The study will concern the performance of the upper house when controlled by the government as well as when controlled by the opposition. The particular aspect of review to be considered here is primarily related to the senate's reaction to proposals of the house of representatives, although some mention will be made also of its power to review the acts of the executive.

Finally, the purpose of this study is not simply to rehash old arguments. Rather, it is hoped that they can be presented in more balanced fashion than has usually been the case in the past. If, occasionally, an even slightly different interpretation of theory or fact appears, then, hopefully, this paper may be of some assistance to others who seek a fuller understanding of the senate's role.

To the supporters of the senate, the first major dispute between the two houses of parliament was an exciting interplay between opposing political forces. To others, it symbolized an intolerable delay in the decision-making process. Nevertheless, whatever the interpretation attached to the event, the fact that parliament could not agree until 1909 on the site of the federal capital seemed to fulfill the hopes of some that the senate would emerge under the constitution as a power-

ful and determined body, independent of the house.¹ Later events, however, proved that such a conclusion was premature.

The fact that the senate has not, during most of its history, shown any great degree of independence from the lower house and government is attributed by many to the existence of strong political parties. It cannot be denied that since the establishment of the party system parliamentarians—regardless of the chamber in which they sat—have by-and-large voted in accordance with the party positions on the issues at hand. Neither is it very strange that senators have not turned out to be the kind of independent legislators many of the founders expected. In an election, no candidate can ignore the special interests of strong groups in the society. To be aligned with a major party is a distinct advantage. Moreover, the size of the state-wide districts has a noticeable effect on the control of senators by national parties. The difficulty a candidate has in making himself personally known to a large constituency (especially when he shares the limelight with several other candidates who are vying for the other senate seats allotted to the same constituency), as well as the financial burden of running an effective campaign, are powerful forces attracting men to the publicity and support available to them in an established party.

To the critics, the control of the parties over their members, while not completely destroying the senate's usefulness as a reviewing chamber, has certainly lessened it. The upper house, it is charged, has "become largely redundant when its party majority corresponds with that in the house of representatives, and obstructive when the vagaries of elections give the two houses different party complexions."² Defenders, on the other hand, may argue that an opposition-controlled senate is the result of popular election, and is simply another of the checks and balances which the constitution allows and which encourages political compromise. This built-in feature, which can allow for legislative review by the opposition, is apparently one which many people have neither understood nor accepted. It is nevertheless a factor to be considered when judging the record of the upper house.

By way of clarification, then, it would seem that any evaluation of the senate must concern itself with the following questions:

- (a) What has been the record of the upper chamber when controlled by the opposition?
- (b) Has revision by opposition-controlled senates been politically obstructive rather than legitimately constructive?
- (c) Has the senate performed as a house of review when controlled by the government party?

After party organizations became rather firmly established in parliament, the first instance of split control occurred as a result of the 1913 election. The labor party lost control of the government when the

house of representatives slipped into the hands of the liberals by a margin of one. Labor, however, succeeded in increasing its margin of control in the senate.³ Inevitably, conflict developed, and in the following year, the commonwealth witnessed the first double dissolution of the parliament under section 57 of the constitution. Charges were made that labor had caused the crisis by being obstructive in exploiting the situation for party advantage. The government, on the other hand, was criticized for deliberately provoking the opposition in order to create a situation which made dissolution possible. Two questions thus arise for our consideration: (1) What was the legislative record of the senate just prior to the dissolution? and (2) Was that record one of legitimate review, or one of political obstruction?

Contemporary articles as well as studies since 1914 agree in substance that the government did indeed wish to play upon party differences in order to provoke a double dissolution.⁴ How, then, did the senate react?

The measure which was the subject of the double dissolution proceedings was the government Preference Prohibition bill. Its purpose was to abolish preferences for unionists in employment with the commonwealth. Labor, unable to divorce itself from the unions, could not accept such a measure, and the senate thus rejected the bill. In addition, the senate amended other legislation sent to it by the house, including a bill to restore the system of "postal voting". While agreeing in principle on postal voting for sick and infirm citizens, the upper chamber altered certain of the methods prescribed by the bill.⁵ In all, the senate's record for the session was as follows: twenty-three bills were passed and assented to; six bills were passed by the senate alone; eighteen of the group of twenty-three bills were approved by the senate without amendment; five of the twenty-three bills were approved with amendments, of which three were laid aside by the house of representatives; two bills were rejected by the senate.⁶

On paper, the record hardly seems to be one of obstruction, especially when one considers the fact that the government Preference Prohibition bill was not a vital measure. As for the legitimacy of the senate's vetoes and revisions, perhaps the best evidence to consider is the support which the labor party's senate policy aroused among the people. In the election which followed the double dissolution, the liberal government of Joseph Cook met its demise. The house of representatives was returned with forty-two laborites, thirty-two liberals, and one independent. The new senate was composed of thirty-one laborites and five liberals.⁷

To be entirely accurate, it must be stated here that the election campaign did not concentrate solely on the bill which was the subject of the dissolution. The results cannot, therefore, be tied directly to labor's stand on that particular issue. However, its victory at the polls certainly demonstrated popular approval of labor's general program,

the spokesman for which since the 1913 election had been the labor senate.

When a party succeeds in winning support for itself, as labor did in 1914, democratic practice has the effect of bestowing upon it the cloak of righteousness. While the senate's behavior might thus have been obstructive in the eyes of the Cook government its actions can hardly be called anything but legitimate, either constitutionally or in terms of its representation of the popular will. Thus, while party attitudes may have determined the course of events—and this will never change as long as the party system exists—the effects of party affiliation did not, in this case, nullify the performance of the senate as a house of review. Rather, it would seem that the upper house was more in tune with the public than was the supposedly more representative chamber of the parliament.

In 1929, the circumstances of a split parliament reoccurred. For three sessions the Scullin labor government was confronted with a non-labor senate, which, in the words of one writer, "... rejected twelve government bills outright, mutilated or delayed many others including a tariff bill, and, most importantly, was able to ensure the strict orthodoxy of the government's anti-depression policy".⁸

Unlike the liberal government of 1914, prime minister Scullin did not make use of the double dissolution provisions of section 57 of the constitution. Two elections in less than one year had been a financial strain on house members, and a third would have been unbearable for some. In addition, many laborites were experiencing their first responsibilities as ministers and they feared that a new election might cut their terms short. There was also pressure from the unions, which sought to convince the government to stay in office as long as possible. Scullin, therefore, decided to maintain the government as best he could—a decision which many think was a political error because it served only to put the government's program before a hostile senate.

From October 1929 to December 1931, the senate passed 131 bills and rejected twelve. Eighty-four bills were passed without amendment, and forty-seven with amendments.⁹ The varied tactics used by the senate, although at times the obvious results of party hostilities, were nevertheless constitutionally in line with the chamber's reviewing power. For example, the Central Reserve Bank bill of 1930 was referred to a select committee on 10 July 1930.¹⁰ Although this was a perfectly legitimate method of studying detailed legislation, there was obviously a partisan purpose behind delaying the bill. When the senate received the committee's report, further debate ended with the passage of a motion that the bill be read "this day six months"—a parliamentary tactic which, in effect, killed the measure.¹¹

In considering the Commonwealth Bank bill of 1931, the opposition

senate, in an unprecedented move, went so far as to call Sir Robert Gibson, chairman of the Commonwealth Bank Board, to the bar of the senate in connection with the bill's proposal to transfer control of the gold reserve from the Commonwealth Bank to the government treasurer.¹² The move was particularly resented by the government, and the senate only added salt to the wound when the bill was finally rejected.

In the debates on the Sewing Machine Bounty Bill, those in favour of passage argued that the bounty and tariff provided for in the bill would stimulate industrial expansion. Those opposed charged that the resulting higher price of sewing machines in Australia would be exploitation of housewives. The vote to reject was strictly along party lines.¹³

In discussion on the Fiduciary Note bill of 1931, the government made an appeal to senators to fulfill their reviewing function. Commenting on the government leader's request that the opposition give the measure serious and unbiased consideration, Senator George Pearce (UAP-WA) charged that this was impossible, as the bill savoured "a great deal of party, and very little of public interest". "We consider", he charged, "that it has been framed solely as a move in the game of electioneering tactics." The opposition senator, demonstrating the difference between his party's and the government's attitudes on fiscal policy, argued that the administration was wrong to think that fiduciary notes were the only way to raise needed revenue. The opposition argued instead that money should be raised by keeping national expenditure in line with national income, thus reviving confidence in the economy and encouraging an increase in credits made available to spur industrial activity.¹⁴ Again, the vote to reject was along party lines.

The senate also prevented the Scullin government from submitting to the people in a referendum a proposal to allow the constitution to be amended by absolute majorities of both houses of parliament.¹⁵ The spirit of the opposition evidenced itself in similar fashion concerning the other measures over which differences occurred between the two houses. The votes recorded were time and again almost invariably party-line votes. In the eyes of some observers, the senate's record was encouraging because it seemed to be evidence of its acceptance of its constitutional purpose. Others doubted this, however, arguing that the "... Senate has amended and has rejected Bills from the other House, not because it has become suddenly conscious of its somewhat atrophied constitutional function as a revising chamber, but because it stands for a national policy fundamentally different from the policy of the government".¹⁶

This contention is obviously true, for the party differences were great, and were perhaps even more noticeable as a result of the economic crises of the 1930's. Again, however, it must be decided

whether or not the senate acted simultaneously as a party chamber and as a legitimate house of review, or if the latter role was sacrificed to the former.

It must again be emphasized that the influence of party can never be disregarded. In that sense, the type of independent reviewing chamber existing to consider and revise legislation without regard to any interest but that of providing sound laws—the kind of dream chamber some of the founders may have expected—certainly does not exist, and cannot exist while political parties function. There is, nevertheless, a function of review which takes place when one party, which represents a sizable portion of the electorate, succeeds in influencing the legislative proposals of another party. Of course, it must be remembered that the character of this type of review is naturally tied to the fact that the senate, because it has a staggered term system, may well be “behind the times”, in the sense that the party lineup may be out of step with popular sentiment as expressed in the last election. On the other hand, it can also be argued that this is not necessarily a disadvantage, and is a factor which was approved by the founders as a guarantee against hasty action by temporary majorities in the house.

Thus, the senate controlled by the opponents of the Scullin government was in fact acting as a house of review. The question which remains is whether the senate’s behavior was reasonable and in accordance with what should be expected of such a chamber. The rejection of twelve out of 131 bills does not in itself seem overbearing. It must be admitted, nonetheless, that the tactics used, such as the calling of a witness to the bar of the senate, were in some cases extreme. In the final analysis, it would still seem that the view of the public would be the best measuring stick to determine the reasonableness of the senate’s record. Although many factors influenced the vote in 1931, not the least of which was the world depression, it is still possible to relate the defeat of the Scullin government in that year to the role of the senate. It was, after all, through the senate that the opposition since 1929 had kept its program before the public. The views made known in that chamber were reiterated in the campaign and, while the vote did not mean that the people approved of all of the activities of the senate, the support given to the general policies of the party which had controlled that body since 1929 was certainly not a repudiation of the party’s use of the senate’s constitutional power of review to try to implement its program.

After the resignation of the Fadden government in 1941, the Curtin labor government came to power with the support of two independents in an evenly divided house of representatives. The government had a minority of two in the senate and not until July, 1944, could labor claim control of both houses. The times, however, were not

ripe for protracted disagreements—party or otherwise—and the government was not unduly hampered by the opposition senate. The most important conflict concerned the government's handling of the Income Tax bill of 1943; but even this disagreement was more procedural than substantive, and it was finally resolved by conference.

In another case, the senate amended the Australian Soldiers' Repatriation bill of 1943, to give preference in appointments to the public service to competent persons who had served in the armed forces outside Australia "in any area prescribed as a combat area".¹⁷ The house further amended the provision to include in the preferential treatment persons who had served on a ship or civil aircraft "in any zone which, in relation to ships or aircraft, . . . is prescribed as a combat zone".¹⁸ The senate would not agree to the house amendment, and the house did not insist upon it. The upper house therefore was successful in revising the bill to its own satisfaction.

In general, this period is not sufficiently representative to judge an opposition senate's record as a house of review. Although the upper chamber did perform that function on occasion, as the above examples indicate, it did not do so with any great frequency. Australia was too concerned with the Japanese threat to risk any great political rifts at home. The election results which finally gave labor a majority in the senate are likewise no reflection on that chamber's record from 1941 to 1944 when one considers the usual tendency of the public to support its government when the country is faced with an external threat.

In 1949, the senate was elected for the first time by the proportional representation system provided for in the Commonwealth Electoral act of 1948. Proportional representation had long been advocated by those who wished to see an end to the lopsided majorities often occurring in the upper house. The circumstances under which the bill was finally passed, however, left the labor government open to criticism. Amid signs that the government was losing ground among the voters, it was suggested that labor was contriving to insure that even if it lost control of the house of representatives, it would maintain its hold on the senate. Because of the staggered system by which senators retire, eighteen members of the upper chamber did not have to stand for re-election in 1949. Fifteen of these were laborites. Due to the increase in the size of the senate from thirty to sixty members in accordance with the Representation act of 1948, forty-two senators were chosen in the 1949 election. Labor, with the buffer of a majority of the non-retiring senators, and with the expectation that proportional representation would result in a near-even split among the new senators, felt assured of keeping its majority in the senate. This is precisely what happened, although the labor majority in the upper house was

reduced to eight. The new election system thus resulted in another split parliament.

According to some news reports, the defeat of the labor party "shocked members of the cabinet as well as most of the rank-and-file, who had felt the government would be returned with a good working majority".¹⁹ Be that as it may, the defeat was a reality, and labor set about its business determined to return to power quickly, while the new liberal government was preparing to test the opposition with certain legislative proposals which it was well aware could create constitutional conditions for a double dissolution.

Government successes in the opposition senate were not impressive. Only two substantive measures were passed into law by June 1950, when parliament rose. One of these created a wool stabilization fund. The second, the Social Services act, dealing with child endowments, was passed only after two unsuccessful attempts in the senate. When the parliamentary session ended, the two houses were deadlocked on three major bills: the Commonwealth Bank bill, the Constitution Amendment bill, and the Communist Party Dissolution bill.²⁰ Time and space make it impossible to cover all of the encounters between house and senate prior to the double dissolution which occurred when the senate failed to pass the Commonwealth Bank bill. For the purposes of this paper, it will be most useful to detail the facts surrounding the senate's consideration of the Communist Party Dissolution bill.

Early in April of 1950, the federal parliamentary labor party made it known that it would not oppose the communist bill—at least in principle. By a vote of thirty-four to twenty-seven, it decided that labor would support the measure with certain amendments.²¹ As the vote indicated, the group was far from being of one mind on the stand to be taken. The party split into several groups on treatment of the bill. Some favored it for practical reasons. Opposition to the measure, it was felt by these men, would mean political disaster at the polls. There was no choice, in view of the public interest which the bill aroused, but to support it. Other laborites favored passage regardless of political consequences because of a deep hatred of communism. Those who opposed the bill did so mainly on two grounds. It was argued that the measure violated labor principles, and also that passage would only drive the communists underground.²²

The amendments which labor favored did not effect the main purpose of the bill, which was to ban the communist party and prevent its members from holding office in trade unions and in the public service. The main area of disagreement concerned the "onus of proof" clause, whereby the burden of proof of innocence rested with the accused person. Labor proposed to shift the onus of proof to the commonwealth.

The senate maintained its position until as late as 27 September, when, after the upper chamber had already defeated the bill once, the

federal ALP executive still decided to insist on the onus of proof amendment, knowing full well that a double dissolution would surely occur if the senate refused to pass the measure again.²³ This stand was a victory for the leader of the opposition, J. B. Chifley, who was faced with growing reluctance on the part of many laborites to press the issue to the point of crisis.²⁴ Mr. Chifley's victory was short-lived. A few weeks later, labor's policy was reversed. The party would allow the bill to pass and amend it when it regained control of the government. The about face was called by prime minister Menzies the "... most abject surrender in the history of the once great Australian labour party". The government was particularly critical of the decision because it originated not with the labor senators themselves, but with the federal executive, "12 outsiders who have already succeeded in holding up the legislation in the interests of the Communist Party for six long months".²⁵

Wherever the decision originated, it was implemented in the senate, and the Communist Party Dissolution bill became law. Labor had backed down, but the government was not wholly pleased with the results, for the senate had foiled Menzies' hopes for a double dissolution.²⁶ In fact, the government found more reason for displeasure a few months later when the high court declared the anti-Communist bill unconstitutional.

The labor record in the 1950 senate served to increase arguments that the upper house had lost sight of its constitutional purpose. The opposition's use of the powers of legislative review was branded as "capricious, juvenile, and arrogant".²⁷ One procedural matter particularly brought scorn to the labor senate by government supporters. In all fairness, however, it cannot be said that the opposition was the sole cause of the incident. The government, wrangling for a double dissolution and a new election which might allow it to win control of the senate, was certainly not beyond playing the game of partisan politics.

On 25 May 1950, the opposition decided to retaliate against a government action of the previous week when the senate was called on short notice for a Friday meeting. Since most senators had planned to leave Canberra on Friday morning for their usual weekend away from the capital, labor decided to demonstrate its disapproval by assembling in the lobby but refusing to enter the chamber. Since several government senators were also absent, the senate, for lack of a quorum, was forced to adjourn.²⁸

Perhaps the government had hoped to catch the opposition off guard. If many of the labor senators had left the capital and the government had been successful in keeping its own men available, the senate might have taken some actions quite displeasing to the opposition. By boycotting the session altogether, labor prevented such a possibility.

During the following week, to insure that no such action would be taken in the future, labor motions were passed fixing the days and hours of sitting in the senate—a matter customarily determined by the government. Henceforth, the senate would convene as it normally had, on Tuesdays and Wednesdays at 3 pm, and on Thursdays at 11 am. Further, a government motion to suspend the standing orders so that new business could be taken up after 10.30 pm was dismissed,²⁹ and it was determined that the president should put the question to adjourn at 10.30 pm when the senate was not broadcasting and at 11 pm when it was.³⁰

On the previous day, labor had once again flouted the government by refusing to have the Communist Party Dissolution bill declared an urgent measure to facilitate consideration by the senate.³¹ It also announced its own intention of introducing the opposition's bill to amend the constitution so as to give the commonwealth the authority to control prices, which would thereby take up time which the senate would otherwise spend debating government proposals. "To some extent", declared the *Sydney Morning Herald*, "they are harvesting a fruity revenge for what the anti-labor senate did to the Scullin government in the years 1929-1931, and there is no doubt that this lust for vengeance is playing no small part in what is occurring."³² To many people the senate did indeed look more and more like a party house, and less and less like a house of review.

Perhaps the argument can be made that as long as the parties' actions are determined by principle, their full use of constitutional reviewing power is to be condoned. Even if such an argument were to be accepted, it could not easily be applied to labor in 1950. As mentioned earlier, the anti-communist bill was one which aroused public feeling. It was perhaps the most important and most newsworthy measure proposed during the session. The opposition had indeed made a strong stand for its proposed amendments, but in the eyes of many, its final surrender seemed to be an example of principle giving way to political expediency.

. . . The party went through all the motions of fighting to the last ditch for what were asserted to be inviolable principles. Then, when the ditch—a general election—hove in sight, the order was given to abandon such impediments as principles and run for cover.³³

The guide used in evaluating the performance of previous opposition senates may also be used here. Was the upper house following a publicly approved policy? Again, public sentiment on the Communist Dissolution bill helps in arriving at an answer to this question. It had been suggested that the opposition of a sizable portion of the labor party to outlawing the communist party had been an important factor in labor's defeat in 1949.³⁴ This contention is strengthened by the results of an opinion poll a few months later in which 82 percent of

those asked said they favored the ban. This 82 percent included nine out of ten liberal-country party voters asked, and seven out of ten labor voters asked.³⁵ Inasmuch as the labor party had decided to support the bill in principle, however, this poll does not show public opposition to labor's stand in 1950. In fact, a poll taken a short time later seemed to substantiate the opposition view when 56 percent of those polled agreed that the onus of proof should be on the government and only 34 percent thought it should rest with the accused, the other 10 percent being undecided. In this case, 65 percent of the labor voters took the former position and 25 percent the latter. Among liberal-country party voters, 48 percent sided with the first group and 43 with the last group.³⁶

Up to this point, labor seemed to have the support of the public. However, after the government had revised its position and had agreed to accept the onus of proof if a person declared to be a communist would give sworn evidence in court, the tide turned. In the next poll taken on the question, 74 percent of the L-CP voters polled and 52 percent of the laborites polled approved the onus of proof clause as the government had amended it.³⁷ Further, to the question of which party the persons polled would vote for if the onus of proof dispute caused a double dissolution, 53 percent said they would choose the L-CP coalition over labor. After dividing the undecided group either proportionally or according to how they had voted in the previous elections, the government's prospective vote rose to 57 percent, leaving labor at its lowest ebb since the depression.³⁸

Labor, regardless of its motives in opposing the passage of the communist bill, had succeeded in creating the impression of being soft on the enemy. In the election of 1951, this had a significant effect. A few months before the election, the pollsters asked a representative sample of the electors for which party they would vote and what was the most important reason for their choice. Fifty-two percent declared for the L-CP, with 30 percent attributing their decision to the government's stand on communism. Forty-seven percent chose labor, but only 4 percent of this group made the choice on the basis of labor's policy on communism.³⁹

It would thus seem that labor had chosen the path which led to public disfavor. In the election of 1951, the senate was lost to them, and the government majority was increased in the house. If the discussion could end here, it would then seem to be clear that the labor senate failed to act properly as a house of review, both because of the obviously partisan tactics used during the session (although it must be emphasized again that the use of such tactics was not a one-sided matter), and because of the rejection of labor's program at the polls. Such a conclusion cannot so easily be made, however. Although the communist issue might have been a major factor in the outcome of the election, the people eventually came around to a position against the

government's anti-communist policy. Support for the program had dropped dramatically during 1951, from 80 percent in June to the actual 49.4 percent who approved the government proposal in the anti-communist referendum which was held a few months later. The opposition, in that same period, had increased from 12 percent to 50.6 percent.⁴⁰ Thus, if one considers that a proper function of the house of review is to educate the public on current issues before the parliament, and to delay controversial measures until the public has had ample time to form and express an opinion, then the original stand taken by labor would seem to have been justified.

One further way remains in which to judge the senate in this period. If one of the main purposes of a reviewing chamber is to safeguard the principles of the constitution, then the action of the high court in declaring the anti-communist bill unconstitutional is further evidence that the senate was acting as a chamber of review. Indeed, it failed in this case not because it maintained an obstructive partisan policy, but because it gave in to the demands of the government.

The conclusion to be made regarding this senate is therefore not cut and dried. There is much evidence to show that party was on many occasions placed before principle. On the other hand, there are also those indications which have been considered here that the senate did at times perform a legitimate reviewing function despite the motives which may have determined many of labor's actions. The major criticism to be made is perhaps that the senate was not consistent, and that on the matter concerning which it had the strongest constitutional case for obstructing the government, it sacrificed the reviewing function for political reasons. Had it maintained its original position on the onus of proof clause in the anti-communist bill, its record as a house of review would have been a better one, and opponents of the senate would have been left with one less argument on the senate's behavior as a party chamber.

The discussion thus far has concerned the senate's activities as a house of review when the opposition was in the majority. During most of its history, however, the parliament has not been so split, and in these years the senate has taken on a calmer, more subdued, and according to some critics, a less useful function. When the government party has dominated the senate, the order of business has been subject to little or no obstruction. This was especially true in the years when the old election system resulted in very heavy majorities for the ruling party. In such circumstances, the government generally had neither the desire nor the need to entertain significant revision of its program by the opposition.

There have, of course, been occasions on which party discipline has not prevented independent action by senators, with the result that

government proposals have either been changed or defeated. For instance, on a government bill in 1939 providing for a tax on gold delivered to the commonwealth bank or to any agent of that bank, enough government senators defected to cause a sixteen-sixteen tie and to defeat the measure.⁴¹ There were similar occurrences on measures such as tariff bills. In some studies, such as Mr. J. R. Odgers' detailed works on the senate, the contention is made that the upper chamber has frequently amended bills sent up from the house.⁴² A closer study of the record, however, reveals that in the great majority of the cases, the amendments referred to were sponsored by the government itself. While it might be argued that this was legislative review in a sense, as it afforded the government an opportunity to perfect its own proposals, it would not be the usual definition given to the concept. The instances when private members, either of the government party or the opposition, have introduced successful amendments are relatively few in number, particularly before proportional representation. To the researcher looking for such instances of independent action by a government-controlled senate, the task becomes unavoidably tedious and disappointingly unproductive.

Since the proportional representation system came into being, the senate has been somewhat more active in making use of its reviewing powers. The reason for this apparently is connected with the fact that the days when a party could capture an overwhelming majority of the seats in the chamber appear to be gone forever. Under the present election system, it is almost impossible for a party to obtain more than six of the ten seats in any state, and quite likely that it will only obtain an even split. The margin of control, therefore, has never been more than four in the years since the 1951 election, and on some occasions the government has had to depend on the support of splinter group senators to maintain control. In such circumstances, the absence of only a few government senators might be significant in a situation where it is not possible to arrange pairs when votes are taken. Likewise, it only takes a small number of dissident government senators to upset the apple cart, bringing defeat to cabinet bills or forcing acceptance of amendments. Since 1952, such instances have been relatively frequent as compared with the record of earlier government-controlled senates.

From 1952, when several government senators voted with labor to accept a liberal member's amendment to the Land Tax Assessment bill,⁴³ to 1965, when the government felt harassed by adverse senate votes concerning the Repatriation bill and the Ipec case, there are numerous examples of independent action by the senate. During this period, a study of the *Senate Debates* reveals over seventeen instances of government defeat. In more than thirty-five other examples, party discipline failed to maintain solid party unity, but the defections were not sufficient to allow opposition victories.

One of the above-mentioned government defeats concerned a bill which was not actually labeled a government bill, although the cabinet's stand on it was no secret. In 1959, the Matrimonial Causes bill was proposed. Because the measure dealt with grounds for divorce, a subject which affected the religious convictions of many senators, it was decided that a free vote should be allowed. Nevertheless, the government made its support known, and its prestige rode with the bill.

In the senate, four amendments were made to the bill. Three of these were at the insistence of the minister in charge of the bill. The fourth amendment, introduced by Senator R. C. Wright of Tasmania, eliminated from the bill a section providing that insanity was ground for divorce.⁴⁴ This was a setback for the government, which had emphasized that the clause was an important part of the measure. Nevertheless, the government decided to accept the change, and the house approved the amendments shortly thereafter.⁴⁵ It was one of the infrequent occasions on which several members of the house voiced praise of the senate for its handling of a bill.⁴⁶

On another occasion, in 1960, ten government senators crossed the floor to vote against the government in support of an amendment to the Sales Tax (Exemptions and Classifications) bill. The amendment passed by a vote of thirty-four to nineteen.⁴⁷ More difficulties appeared when the government was informed that Senator Wright and Senator I. A. C. Wood of Queensland would oppose the government bill to increase the sales tax on cars. When the bill was brought to a vote, it was rejected at the second reading stage by a twenty-nine to twenty-nine tie.⁴⁸

The senate's refusal to ratify the ten percent sales tax increase placed the government in "the most embarrassing position it has faced in its 11 years of office".⁴⁹ The embarrassment was caused by the fact that the vendors had been collecting the "tax" on cars sold since 16 November 1960, in anticipation of the bill's passage. The defeat of the measure would necessitate a refund of these "taxes". The government thus decided to try again for a favorable senate vote. On the second vote, Senator Wright saved face for the government by abstaining and allowing the bill to pass.⁵⁰ Criticized for a sheepish performance, Senator Wright took the opportunity to explain his conception of the senate's role as a house of review. Still opposed to the bill, he felt, nevertheless, that the senate had fulfilled its task by registering its opposition. The government not being able to accept the senate view, he thought that the upper chamber should yield.

My outlook is that a deliberate vote in the Senate demands a great sense of self-discipline and an objective interpretation of the constitutional relations between the two Houses. The Senate is not a rubber stamp but, on the other hand, it is not a forum for irresponsible obstruction to legislation of an elected government. One must always be conscious of pre-

serving a proper sense of the relationship of our authority to that of the House of Representatives.

I therefore feel that, as the Government, with the support of the House of Representatives, is pressing its claim to have this measure passed, it is proper to withdraw my vote from the division.⁵¹

Senator Wright's independent spirit has continued to be a thorn in the government's side. In fact, more often than not, whenever an "across-the-aisle" vote is recorded in the senate, it is that of Senator Wright. In any case, the number of members who have bolted party lines on occasion is small. Still, under the current system which results in frequent ties and close divisions, small defections—perhaps one vote—could swing the tide on any measure.

Obviously, therefore, the significance of senate votes has increased greatly. The government can no longer afford to neglect the proceedings in the upper chamber. Whether this is good or bad depends, of course, on the viewpoint of the observer. For those who sincerely desire an active house of review, the signs seem to point to a slow but fairly steady change in the direction of independent action by enough Senators to make the difference. To others, on the other hand, the trend serves only to encourage further talk of eliminating or limiting the powers of the senate.

To those who desire a meaningful check on executive power, the work of the senate's Regulations and Ordinances committee has been extremely valuable. The recent Ipec case, which has been so fully covered by the press, is only one of many such cases when Senator Woods' committee has been applauded for its watchfulness. In 1956, two government party members, Senator J. A. McCallum (NSW) and Senator G. J. Rankin (Vic), voted with the opposition against a regulation under the Leases Ordinance 1918-1955 of the Australian capital territory. The regulation provided that grazing, fruit-growing, horticultural, dairy or agricultural leases in the capital territory could be granted for a period not exceeding fifty years and other leases for a period of ninety-nine years. The regulation repealed a previous one which had provided that no person would lease land of a greater assessed value than 10,000 pounds exclusive of value of buildings and other improvements. The government contended that the old regulation was too inflexible. The opposition, on the other hand, argued that the repeal of the old rule left the way open for monopoly control of the land in the territory. Senator McCallum reminded the chamber that "... senators are particularly the guardians of the Australian Capital Territory" and argued that the area must be protected from control by a few large interests. The motion to disallow was carried in the closely divided senate by a vote of twenty-six to twenty-four.⁵² On this occasion, Herbert Evatt, the labor leader in the house, applauded the vote. "The action of the Senate in refusing to rubber-stamp arbitrary bureaucratic action", he said, "is some encouragement to those

who feel that the Senate has a lofty and invaluable public duty to perform.”⁵³

Another instance in which the senate used—or, more accurately, threatened to use—its power of disallowance concerned certain import licensing regulations promulgated in 1957. Senator Wood gave notice to the government that he intended to move that the regulations be disallowed. He made the statement after the senate standing committee on ordinances and regulations had tabled a report recommending an end to the rules.⁵⁴ The committee consisted of four government and three opposition senators, and its action caught the senior ministers by surprise. The four government senators were pressured to change their mind, but the opposition held. The argument against the regulations was based on the fact that the licensing system deprived a trader of the right to import without the minister's consent. There was no provision for allowing an appeal to a court if the minister's decision was thought to be unjust.

The senate committee's move was praised in the press, the *Sydney Morning Herald* declaring that “. . . the Senate exists—or should exist—for precisely this kind of searching review of the processes of government and the implications of legislation couched in the broadest and most general terms”.⁵⁵ The government finally gave way before the senate threat. New import licensing review advisory boards were established to ensure equitable treatment of individual cases within the framework of government policy decisions. With the objections of the senate committee satisfied, the motion for disallowance was withdrawn.⁵⁶

Senator Wood's committee demonstrated its vigilance also in 1960, when three government regulations concerning servicemen's pay were voided by the senate.⁵⁷ The regulations in question gave the three military service boards retrospective power over pay and allowance increases which had been granted over preceding periods of time. The senate held that an act of parliament was necessary to restore validity to this long list of unauthorized expenditures totalling 100 million pounds. The senate was again applauded for its role in attempting to correct abuses by the government, this time in the use of money powers.

The conclusions to be drawn from this study are by no means clear-cut. As it was stated earlier, the senate's record has been spotty. When controlled by the government prior to 1949, it did little except act as a rubber stamp for cabinet decisions. When dominated by the opposition, it has seemed in the eyes of many to be bent on using obstructionist tactics for purely partisan motives. The attempt has been made here to show that much of the criticism stems from the fact that the concept of review may be too narrowly defined. The reviewing func-

tion is too often thought of in terms of the ideal—an honorable task performed by perfectly dedicated, unbiased, and expert legislators. Such an image makes it impossible to rate the practical value of either the senate's actions or its potential. If, on the other hand, the concept of review is more realistically and more broadly defined, then the senate can claim that it has performed that function more often in the past than its opponents are willing to admit.

An attempt also has been made to show that despite the charge of obstructionism levied against opposition senates, there is no clear indication in the election results of 1913 and 1933 that the senate (or, more precisely, the opposition which controlled it) was being rebuked for the use of reviewing powers. Admittedly, the evidence included here to support the conclusions made is limited by the size of this paper. Nevertheless, it is hoped that enough material has been presented to warrant consideration of this point as a tempering factor on the "obstructionist" argument.

In the face of continued criticism, the real decisions which must be made regarding the usefulness of the Senate can only be made if some understanding of the senate's proper role is achieved. What is to be required of the upper house? What kind of "review" shall it undertake? Must it be perpetually active in revising or checking government and house proposals, or is an occasionally brilliant move sufficient to justify its existence? Also, criticism of the senate should be recognized for what it is. Many have argued that the senate has failed to act as a house of review. But if these same critics become increasingly annoyed when the senate demonstrates a growing ability and willingness to use its reviewing power, it becomes obvious that their real objection is not that the senate has failed, but that there is a senate at all.

Unfortunately, the blame for much of the adverse opinion must be placed at the doorstep of the upper chamber itself, for even the senators do not appear to have a very clear understanding of what their purpose should be in a parliamentary system in which the government is basically responsible to the lower house. Constitutionally, the senate could be much more powerful than it is. Much of its potential lies dormant, however, intoxicated by party discipline and a tradition of subservience. Proportional representation could be the key to a more active and important role. Increasing its activity, however, will inevitably arouse the opposition of the government, and perhaps the concern of the people (although there has been no great popular reaction against the senate in recent years). Nevertheless, the time for decision is at hand, and the doors to the senate's future are swinging open. What lies beyond those doors only the uncertain course of politics will reveal.

9 | THE PREPARATION OF A DRAFT BILL

J. Monro

I speak tonight as a representative of the Commonwealth Parliamentary Draftsmen, and as an Assistant Parliamentary Draftsman in the Parliamentary Drafting Division of the Commonwealth Attorney-General's Department. That Division consists of lawyers who are trained in the special skills recognized as necessary for the drafting of legislation. In many countries, including Australia, England, Canada and the United States of America, the drafting of legislation is confined almost exclusively to such specialist lawyers. In the Commonwealth, the Parliamentary Draftsman and his officers are under the Ministerial control of the Attorney-General and are not officers of the Parliament. In what follows, I refer to the draftsman; the draftsman may, of course, be the Parliamentary Draftsman himself, or another lawyer in the Division working under his direction and control.

A new law is rather like a new-born baby. It has been in the making for a considerable period and must now face the world. It will be praised and reviled; it will be tested in the rough and tumble of the world and have its character relentlessly probed in an attempt to find its weaknesses; it may die an untimely death, be subjected to major surgery or live to a ripe and honourable old age. A baby whose conception is the result of loving thought and planning, whose period of gestation has been adequate and competently supervised and who has been delivered by a skilled obstetrician, starts with advantages not shared by children who have not been so fortunate. In the same way the young law that has been carefully thought out in the planning stage, has not been rushed through the drafting process and has been carefully considered and dealt with in its passage through the Parliament is more likely to stand the test than one that has been rushed through any of those processes.

The draftsman may be likened to the mother of a law, but should not be expected to be both father and mother of a law. He takes the genes presented by the father, adds his own contribution towards the

character of the law, nurtures it through its period of gestation and hands it over to the Parliament, as the skilled obstetrician, to see it through the pangs of birth.

BILLS

Under the existing parliamentary system in the Federal sphere, bills are divided into government bills and private members' bills. A bill is a government bill if the Federal Government of the day accepts responsibility for the policy to which it gives effect. Any other bill is a private member's bill. While there is no law or parliamentary rule that requires a bill to be drafted by the Parliamentary Draftsman, or under his direction, it is the rule that all government bills should be drafted or settled by him. The Parliamentary Draftsman may, at the request of a private member and with the consent of the Attorney-General, draft a bill for the member if he can do so without delaying the drafting of government bills. Although I will be dealing only with the preparation of government bills, many of the principles discussed are also applicable to private members' bills.

A government bill usually has one of four sources. First, there are laws that give effect to the political philosophies of the party or coalition of parties having a majority in the House of Representatives. Examples of such laws are the *Banking Act* 1947 and the *Communist Party Dissolution Act* 1950. Secondly, there are laws that stem from recommendations made to Ministers of State by members of the Public Service. Every Commonwealth Department administers certain laws and fields of Commonwealth activity. The need for amendment of existing laws, and for new laws regulating activity in a particular field, is frequently apparent first to members of the public service in the Department concerned. Thirdly, laws result from recommendations of committees established by the Government to examine and report on particular problems or branches of the law. Example of such laws are the *Patents Act* 1952 and the *Trade Marks Act* 1955. Reports of committees recommending substantial amendments to the Copyright Act and the Bankruptcy Act are at present receiving consideration. Fourthly, many amendments of the law originate in suggestions made to members of the Parliament or to Departments by members of the public and private organizations.

CABINET APPROVAL

Whatever the source of a government bill, the draftsman does not, ordinarily, begin drafting the bill until Cabinet has approved the proposal. Approval of Cabinet is obtained by a Minister of State formulating, in a document called a "Cabinet Submission", the proposed

scheme, and indicating, generally, what amending or new legislation will be required to implement it. The submission should be in enough detail to enable Cabinet to consider the working of the scheme and all aspects of its effect on the Australian community.

Before the submission is forwarded to the Cabinet Secretariat for distribution to members of the Cabinet, the Department concerned should discuss the proposal with representatives of any other Departments concerned either generally or in respect of particular aspects. For example, proposals that involve the expenditure of public moneys should be discussed with officers of the Treasury, unless they originate in that Department. Similarly, proposals that involve the establishment of new federal courts or the conferring of a new kind of jurisdiction on the existing courts should be discussed with officers of the Attorney-General's Department, if they have not originated there.

The form that a Cabinet Submission should take is a matter outside the province of the draftsman although, not infrequently, the Parliamentary Draftsman is consulted during the preparation of the submission. A Cabinet Submission in the form of a layman's draft bill is likely to create serious difficulties for the draftsman who will subsequently have to prepare the bill that is introduced into the Parliament. First, a part of the draft bill approved by Cabinet may be open to two different meanings each of which is consistent with other parts of the draft bill. The draftsman must then alter the wording of the draft to remove the ambiguity; however, he will be uncertain how Cabinet construed the part when approving the draft. Secondly, it may well happen that certain parts of the draft can be omitted from the bill because, for example, they deal with administrative practices that do not require legislative cover. Thirdly, the draftsman may decide that the bill should follow an entirely different pattern. In any of these events, the draftsman's freedom of approach is circumscribed by the fact that Cabinet has had what purports to be a draft bill in a particular form before it, and has approved that form. It may well be possible to resolve the difficulties only by a further submission to Cabinet. I suggest that, so far as possible, submissions to Cabinet involving legislation should be in respect only of matters of principle and policy; the details should not be included in the Cabinet Submission.

Officers of the Attorney-General's Department, including the Parliamentary Draftsman and his officers, are available to assist Departments in the planning stages of legislation. In particular, advice is given, upon request, concerning constitutional problems arising out of the proposals, the effect of the proposals on the existing law and the advantages and disadvantages, from a legal point of view, of adopting one or other of various possible means of achieving the aim of the proposed legislation. A draftsman is not, however, available to prepare trial drafts.

Officers responsible for planning legislation should, I suggest, keep clearly in mind the fact that the proposed legislation must eventually be passed by the Parliament. Cabinet will, of course, ordinarily consider the political implications when considering the submission. If the submission deals, as I have suggested, only with matters of principle and policy and not with detail, Cabinet will probably consider the political implications only in relation to the general principles of the proposed legislation and not in relation to the full details. Political implications must be kept in mind throughout the planning and drafting stages when filling out the details of the bill.

INSTRUCTIONS TO THE DRAFTSMAN

A rule exists that instructions for the drafting of a bill are to be furnished to the Parliamentary Draftsman within 48 hours after Cabinet has approved the preparation of the bill. Accordingly, the sponsoring Department should have clearly in mind, at an early stage—

- (a) the aim of the bill;
- (b) the administrative structure required to achieve that aim;
- (c) the manner in which existing laws will be affected;
- (d) the extent to which existing laws should be altered; and
- (e) all other details necessary for furnishing instructions to the draftsman.

The instructions to the draftsman should not be in the form of a draft bill but should set out, clearly and fully, the aim to be achieved and, in detail, the means by which it is suggested that the aims be achieved. Difficulties and problems, whether of a legal, administrative or other nature, that appear to be involved should be dealt with in the instructions. The instructions should also draw attention to existing laws that appear to require modification as a result of the proposal. Ordinarily, instructions that consist merely of a copy or paraphrase of the Cabinet documents are quite inadequate. Instructions that deal comprehensively with the matters I have just referred to greatly assist the draftsman in his preliminary assessment of the task, and in formulating his preliminary plan.

In what follows, I have attempted to set out the steps in drafting a bill, but it should be remembered that each bill is different and that these steps often merge into one another and do not stand out clearly as divisions of the task. The work of the draftsman may be summarised as follows. He will first study carefully the background, legal and otherwise, to the proposals, and reach a clear understanding of them. That will, in many cases, involve legal and general research to qualify him to deal with the subject matter. For example, if the proposals involve the establishment of an atomic energy plant, he may have to

make himself familiar with the manner in which such plants are constructed, the safety precautions that should be taken, the dangers involved and the technical terms employed in describing all those matters. That does not, of course, imply that the draftsman would become a qualified atomic engineer or scientist; but he must prepare himself to discuss the problems involved with such an engineer or scientist, and be capable of understanding those problems in the language in which such an engineer or scientist is accustomed to discuss them.

The next step is to discuss the proposal with officers from the sponsoring department. The primary purpose of this discussion is to ensure that the draftsman's understanding of the aim and means is the same as that of the departmental officers. This stage may seem both tedious and unnecessary to those officers, but it is remarkable how often the words we write mean something quite different to the person who reads them than they meant to us when we wrote them.

The draftsman is now in a position to formulate his legislative plan. The administrative plan referred to previously is quite different from the legislative plan. In order to give effect to the administrative plan, the draftsman must determine the persons who are to benefit, the persons who are to be bound, the conditions that are to apply, the effect of failure to comply with conditions, the extent to which legislative provision is necessary at all, the possible need for subordinate legislation, and so on. The legislative plan is discussed with officers of the sponsoring department and, if necessary, modified. A draft bill is then prepared, considered by the Department, modified and reconsidered again and again until both draftsman and Department are satisfied that it meets the Department's requirements. This process may continue, in the case of a difficult bill, over many months.

The draftsman is often asked to put legislation in a particular form in order to emphasize a particular point or even to avoid the placing of undue emphasis on a particular point. He endeavours to comply with such requests. However, he is ordinarily responsible for ensuring that the legislation is legally effective; if the drafting of a provision in a particular way, at the request of the sponsoring department, might, in the draftsman's opinion, render the provision ineffective, he would comply with the request only if the department accepted the responsibility, and may, indeed, refer the matter to the Attorney-General for his instructions.

The nature of the drafting process is clearly described in Chapter 14 of *Professional Staffs of Congress*, by Kenneth Kofmehl. Dealing, at p. 189, with the office of Legislative Counsel, which corresponds with the office of Parliamentary Draftsman in the Commonwealth, the author summarizes the nature of bill-drafting. (It should be borne in mind that in America committees of Congress sponsor bills in the same way Departments of State do in Australia.)

The essence of bill drafting is placing a legislative proposal in the proper legal phraseology and form to achieve congressional intent. It is primarily a task of *legal analysis and research rather than of composition*. Rarely does the pressure of work allow time to polish grammar or rhetoric. [This may be true in the United States of America, but in the Commonwealth, even if it means working for long hours in doing so, a great deal of time is spent in achieving precision in grammar and expression.]

Framing the legal language to embody congressional purpose is not as difficult as ascertaining what that purpose is in its entirety. While a committee (or individual member of Congress, as the case may be) is in the process of working out what it wants to do, the legislative counsel assist it by explaining the effect of alternative proposals. Even after the committee (or Congressman) has settled upon the major outlines of a measure, subsidiary policy questions seem to unfold endlessly. The legislative counsel must point up all of those for the committee (or Congressman) to decide. To accomplish that, the legislative counsel must envisage the broad application of the proposed law in all of its ramifications. And they must consider the precise provisions for administrative structure and procedures to be specified in the statute. For policy issues—sometimes relatively major—inhere in such technical details. Until the legislative counsel have secured a determination of those by the committee (or Congressman), they cannot know the complete congressional intent.

To perform their job properly, the legislative counsel have to do extensive legal research. In many cases they must check the constitutional limits on legislative authority. On occasion, to anticipate presidential reaction, they have to look into a line of veto messages. To predict the legal implications of a proposed measure, they must analyse it in relation not only to the statutes on the same or cognate subjects but also to the judicial and administrative interpretations of them. Sometimes this research renders the drafting of a bill unnecessary by revealing that there already is a law covering the matter or that its objective can be achieved through complying with departmental regulations.

Also, a major aspect of the legislative counsels' work is probing with questions to secure the detailed substantive knowledge of a matter necessary to draft a bill on it. They interview congressional staff members, executive branch experts, or whomever else the committee (or Congressman) authorizes them to consult. Sometimes groping with their initial queries, they learn enough about the subject as they progress to ask intelligent questions about it. The ability to elicit in this fashion requisite technical information from specialists is a crucial skill for the legislative counsel.

Reference has been made to discussions with officers of the sponsoring Department. It is not the province of the Parliamentary Draftsman to decide what officers will instruct him. Nevertheless, in the course of drafting a bill, it is nearly always necessary to fill out the details of the legislative plan at those discussions. If the drafting is to proceed smoothly and without unnecessary delay, it is essential that the instructing officers should be equipped, by their intimate knowledge of the proposals and by their status, to come to a firm decision

on those details without further reference to their Department unless a major issue of policy is involved. It is particularly exasperating for the draftsman, (a) to have two or more instructing officers arguing about the points raised by the draftsman while he is waiting for a clear answer that will enable him to proceed with the draft; (b) to be instructed by an officer who is unable to decide even minor details without reference to senior officers; or (c) to find that his instructing officer has instructed him as to the details to be included in the bill and then that the officer's senior officers have later altered the instructions so given. It is most helpful if the instructing officer, or one of the instructing officers, is of sufficient status and experience, first, to recognize the major matters that might require consideration in his department at a high level and to obtain a decision on those matters without undue delay, and, secondly, to give a decision on other matters in the course of the discussions with the draftsman.

I shall not elaborate further concerning the drafting process. Parliamentary drafting can only be learned by trial and error and by patient training. There are, however, several matters that arise in the course of drafting Commonwealth legislation on which comments may be helpful. I propose to deal, briefly, with the following subjects: the Constitution, the States, taxes and charges, appropriations, judicial power, regulations and forms.

THE CONSTITUTION

The Commonwealth Constitution confers power on the Commonwealth Parliament to make laws with respect to certain specific matters only. Parliament's powers with respect to a few of those matters, such as the power to impose duties of customs and excise and to grant bounties on the production and export of goods, is exclusive of the States. Laws with respect to other matters may be made by the States as well as by the Commonwealth. However, where a law of a State with respect to a matter concerning which the Commonwealth Parliament is competent to make laws is inconsistent with a law of the Commonwealth, the law of the Commonwealth prevails (the Constitution, section 109). The first task of the draftsman, then, is to satisfy himself that the proposed law does deal with a matter with respect to which the Parliament may make laws.

An example may, perhaps, clarify the point I am making. The Commonwealth Parliament has no general power to make laws with respect to education. Accordingly, if a Department furnished instructions for the drafting of a bill to require all the children in Australia to remain at school until they had attained the age of eighteen years, the draftsman would be forced to inform the Department that a bill that attempted to achieve that result directly would not be valid. However,

it is trite saying that what cannot be done directly can often be done indirectly and, in relation to law, often a true one. Assuming that the Commonwealth intended to accept at least some of the expense of educating children until they attained that age, a bill that granted financial assistance to the States on condition that the States made provision for the compulsory education of children until they had attained the age of eighteen years would be valid. However, lest you should think that it is always the case that, in Commonwealth legislation, what cannot be done directly can be done indirectly, I hasten to point out that the High Court held as long ago as 1908 (*The King v. Barger* 6 C.L.R. 41) that the Commonwealth could not, under the guise of imposing an excise duty on the manufacture of goods, regulate the conditions of manufacture of the goods, the regulation of those conditions not being within the legislative powers of the Commonwealth. Officers responsible for planning legislation should seek legal advice, at an early stage of planning, if their legislation breaks new ground in order to ensure that it will be within the legislative powers of the Commonwealth.

THE STATES

Reference has been made earlier, both in preparing and drafting a bill, to the need to examine the existing legal framework. That involved looking at Commonwealth laws and quite often also at State laws. The need to look at State laws is two-fold. First, the States may already have laws dealing with the matters concerning which it is desired to make the Commonwealth law. It is often necessary to decide whether certain matters can continue to be dealt with by existing State laws or whether the Commonwealth law should be made quite comprehensive and supersede the State laws. Generally that is a matter of policy for the Department, not the draftsman, to determine. The draftsman will, however, assist the Department to reach its decision by listing the advantages and disadvantages involved. An important matter to be borne in mind is the time that would be required to draft a bill that will cover the whole field.

A subsidiary point that must often be considered is the extent to which it is intended that persons or corporations exercising powers and performing functions under the proposed law on behalf of the Commonwealth are to be subject to State laws. In general, the Commonwealth is not subject to State laws such as licensing laws, factory and shops legislation, building controls and other like controls. Where the Commonwealth law is so framed as to authorize persons to exercise powers and perform functions on behalf of the Commonwealth and as part of the executive machinery of Commonwealth government, the persons are said to enjoy the shield of the Commonwealth

and are not bound by State laws. However, it may be intended to set the persons up as persons or bodies independent of the executive government of the Commonwealth and exercising an independent judgment. In that case, if it were intended that the persons or bodies be free from certain State laws, it would be necessary to make express provision to that effect. It should not, of course, be assumed, from what I have just said, that it is, in all cases, legally possible to free independent persons or bodies from *all* State laws and controls.

TAXES AND CHARGES

Section 51 (ii) of the Constitution authorizes the enactment of legislation with respect to taxation. The power is unlimited so far as the selection of the subject matter of taxation is concerned. Nevertheless, other provisions of the Constitution raise problems for the draftsman whenever it is proposed to require persons to pay money to the Commonwealth or to other persons or bodies. Section 55 of the Constitution provides that—

- (a) laws imposing taxation must deal only with the imposition of taxation;
- (b) laws imposing taxation, except laws imposing duties of customs or excise, must deal with one subject of taxation only; and
- (c) laws imposing duties of customs must deal only with duties of customs and laws imposing duties of excise must deal only with duties of excise.

As a result of those provisions, it was necessary, recently, to pass five acts in order to impose a small charge on tobacco leaf grown in Australia and to use the proceeds for research in the tobacco industry, namely, three taxing Acts, one tax assessment Act and one Act providing for the appropriation of the moneys collected to the research concerned. The three taxing Acts were necessary because of the circumstances of the tobacco growing industry and the need to confine each Act to a separate subject of taxation. The first taxing Act imposes a charge on tobacco grown in Australia and sold to a manufacturer. The second taxing Act imposes a charge on tobacco purchased by a manufacturer other than a grower's co-operative. The third taxing Act imposes a charge on tobacco grown in Australia by a person who is also a manufacturer and appropriated for manufacture by himself. The three subjects of taxation were, therefore, tobacco sold by the grower, tobacco purchased by certain manufacturers and tobacco appropriated for manufacture by the grower. Whenever a tax is to be imposed, it is necessary to examine very carefully all the possible circumstances in which the tax is to be payable and, if necessary, to have a separate taxing Act for each set of circumstances.

Section 55 of the Constitution also provides that, in a law imposing taxation, any other provision is of no effect. In an article in 7 *Res Judicatae* at p. 415, F. L. Jones pointed out that the result is that, while any odd sections included in a taxing Act are void, the Act is still effective for its purpose; but an odd section imposing taxation included in a non-taxing Act renders all the other sections in the Act invalid while it, itself, remains valid. The draftsman is frequently required to resist pressure from Departments to include the provisions for collecting the tax in the bill imposing the tax. Sometimes, when the provisions for collecting tax are in the simplest form, that has been done, although not without doubt as to the validity of the provisions. Examples are the *Wheat Export Charge Act* 1958 and the *Dairy Produce Levy Act* 1958.

Taxation has been defined as “raising money for the purposes of government by means of contributions from individual persons” (*The King v. Barger* (1908) 6 C.L.R. 41, at page 68). Although that definition is wide enough to cover fees charged by the Commonwealth for various services, such as filing documents in the High Court, issuing certificates of seaworthiness for ships, providing facilities for airlines, etc., such fees are, fortunately, not regarded as taxes for the purposes of section 55 of the Constitution. Accordingly, it is not the practice to include provision for the payments of fees for services provided by the Commonwealth in a separate taxing Act. It may, of course, call for legal judgment of a high order, to decide, in a particular case, whether the proposed charge is a fee for a service or a tax.

It is often intended that fees or charges imposed by an Act be paid to bodies other than the Commonwealth and retained by them for their own purposes. If the body has the shield of the Commonwealth, then the moneys so paid to it are, in ordinary circumstances, received by the Executive Government of the Commonwealth and, therefore, form part of the Consolidated Revenue Fund (section 81 of the Constitution). If the body does not possess the shield of the Commonwealth, the question whether the moneys are fees for services or taxes crops up again. If the moneys are fees for services, they can be retained by the body; however, if they are taxes, they form part of the Consolidated Revenue Fund because they are moneys raised by the Executive Government of the Commonwealth. If the moneys form part of the Consolidated Revenue Fund, provision must then be made to appropriate them for use by the body.

APPROPRIATIONS

Section 83 of the Constitution provides that no money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law. Where proposals involve the expenditure of Commonwealth funds, the expenditure must, therefore, be authorized by an

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Act. Appropriations are of two kinds, those for the ordinary annual services, which are effected by the annual Appropriation Act, and special appropriations, which are permanent and not reviewed annually, and are made by a provision of another Act.

An appropriation that is for the ordinary annual services should, except in an exceptional case, be made in the annual Appropriation Act. Only when it is desired to give such an appropriation a special degree of permanence, such as an appropriation for Judges' salaries, should a special appropriation be included in an Act. The draftsman will, of course, have to determine whether an appropriation is for the ordinary annual services. If he is satisfied that it is such an appropriation, it would be for the sponsoring department, in consultation with the Department of the Treasury (if that department is not sponsoring the bill), to decide whether or not there should be a special appropriation.

JUDICIAL POWER

The judicial power of the Commonwealth is vested in the High Court, in federal courts created by the Parliament and in such State courts as the Parliament invests with federal jurisdiction. Judicial power was described by Sir Samuel Griffith, Chief Justice of the High Court, as follows:

It is the power which every sovereign authority must of necessity have to decide controversies between its subjects, whether the rights relate to life, liberty or property. The exercise of this power does not begin until some tribunal which has power to give a binding and authoritative decision (whether subject to appeal or not) is called upon to take action. [*Huddart, Parker & Co., Proprietary Limited v. Moorehead* (1908), 8 C.L.R. 330, at p. 357.]

However, there are functions, such as the determination of the validity of parliamentary elections, the registration of patents, the disallowance of rules of industrial organizations, that are capable of being determined either administratively or judicially. The Chief Justice, Sir Owen Dixon, and Sir Edward McTiernan, in a joint judgment in *Queen v. Davison* (1954), 90 C.L.R. 353, at pp. 369 and 370, put the matter this way:

There are many functions or duties that are not necessarily of a judicial character but may be performed judicially, whether because they are incidental to the exercise of judicial power or because they are proper subjects of its exercise. How a particular act or thing of this kind is treated by legislation may determine its character. If the legislature prescribes a judicial process, it may mean that an exercise of the judicial power is indispensable. It is at that point that the character of the proceeding or of the thing to be done becomes all important.

In 1956, the High Court decided in the *Boilermakers' Case* that judicial power could be validly vested only in a Court. (*The Boilermakers' Case* (1956), 94 C.L.R. 254.) That decision was upheld by the Privy Council. In the light of those decisions, it is essential for the draftsman to examine carefully any proposal under which a Minister or other person is authorized to determine questions affecting a person's rights or liabilities to ensure that the judicial power of the Commonwealth is not being invalidly conferred on him. Conversely, proposed legislation must be carefully examined to ensure that purely administrative functions are not conferred on courts. Other problems arise when it is desired to confer a right of appeal to a court against a Minister's decision. Care must then be taken to ensure that the court only has to take into account matters that have come to be regarded as involving judicial considerations, and is not called upon to exercise administrative discretions. For example, section 183B of the Customs Act authorizes the Minister to suspend or revoke a Customs Agent's Licence if an inquiry has shown that the agent has committed an offence against the Act or that certain other grounds exist. However, the section does not compel the Minister to suspend or revoke the licence. He has a completely unfettered discretion and may apply any criteria he chooses in reaching his decision. There is a right of appeal to a Supreme Court against the suspension or revocation of a licence by the Minister. Section 183C *requires* the Court to cancel the licence if it finds that the agent has committed such an offence or finds any other ground proved unless it is of opinion that it is just not to do so. The question whether or not a thing is just has long been recognized as a question that it is proper for a court to decide. You may think the distinction is a fine one but, nevertheless, the Minister's discretion is absolute and the court has only a clearly defined and well recognized judicial discretion.

REGULATIONS

A question that often arises in the course of drafting a bill is whether or not to leave some matters to be determined by regulations, and what kind of matters are appropriate to be dealt with in regulations. The usual practice is for the general principles of the scheme to be stated in the Act and for matters of administrative detail, particularly matters that may need to be changed from time to time, to be dealt with by regulation. The *Air Navigation Act* 1920 did nothing else than authorize the making of regulations giving effect to the Paris Convention on Aerial Navigation and controlling Air Navigation in the Commonwealth and its Territories. I do not, myself, think that an Act, in that form, would be passed by the present Parliament.

Not infrequently, the draftsman of an Act has found that the regulation-making power is inadequate to allow the regulations required

by the Department to be validly made. Indeed, it has been said that no bill should be regarded as finally settled until any regulations proposed to be made under it have also been drafted. While that would be an excellent policy, bills are invariably drafted in too much of a rush to enable it to be carried out. The comment does, however, point the moral that both the instructing officers and the draftsman should have a very clear idea of what is to go in the regulations before the drafting of the bill is completed. There are several reasons for this. In the first place, the regulations cannot alter anything in the Act unless the Act expressly authorizes the regulations to do so; except in the case of regulations fixing the amount of a charge, power to amend an Act by regulations is seldom conferred. Secondly, regulations must be consistent with the terms of the Act under which they are made; they can complete the details of the scheme but cannot add new aims or ideas, unless expressly authorized. Thirdly, where it is intended that regulations should confer judicial power, provide for the imposition of penalties or the charging of fees or require the furnishing of a statutory declaration, express power to do so should be conferred in the Act.

All regulations made under a Commonwealth Act must, after being made and notified in the *Commonwealth Gazette*, be tabled in each House of the Parliament, and may be disallowed by either House. Regulations tabled in the Senate are examined by a Committee of Senators, called the Senate Standing Committee on Regulations and Ordinances. That Committee has power to report to the Senate concerning matters in regulations that it considers ought to be brought to the notice of the Senate. Following several of its reports, the Senate has disallowed regulations that the Committee has criticized.

The Committee has stated, in its reports, that it will examine regulations to ascertain—

- (a) that they are in accordance with the Statute;
- (b) that they do not trespass unduly on personal rights and liberties;
- (c) that they do not unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions; and
- (d) that they are concerned with administrative detail and do not amount to substantive legislation which should be a matter for parliamentary enactment.

Departments considering what matters might be dealt with by a bill and what left for regulations should bear these criteria in mind, because the Senate Committee may well criticize regulations notwithstanding that express power to make them is given by the Act in the clearest terms. Of course, if regulations are inconsistent with the Statute, they are, whether disallowed or not, invalid.

FORMS

The draftsman is responsible for the set-up of forms that are to be included in a bill. He will, however, endeavour to draft them so that they can be readily completed and used by the persons concerned. To do this, he will need detailed instructions as to the persons who will be furnishing them and the use that will be made of them. Instructing officers should consider twice, and then again, whether it is really necessary to prescribe a form at all. Unless it is necessary to establish beyond doubt that a document in question is the document that is effective for a particular purpose of the Act, it may be unnecessary to prescribe a form at all. It is usually found that people who need the Department's help will, in fact, use an official or approved form without being required to do so by an Act or by regulations. The draftsman is always looking for ways in which legislation can be shortened. One of these ways is to avoid including forms in Acts and regulations unless it is essential to do so.

THE DRAFTSMAN AND THE PARLIAMENT

The draftsman has not quite finished with a bill when it is approved by the sponsoring department. It then goes to Committee of Cabinet for approval to introduce it into Parliament as a government bill. That Committee has before it a report from the Parliamentary Draftsman as to any departures from the original Cabinet approval and as to any other matters that he thinks should be brought to the Committee's notice. While the bill is being considered by the Parliament, the draftsman is available to advise the Minister in charge of the bill on any legal questions arising in the course of the debate, to assist officers of the sponsoring department and to draft any amendments that may be required.

I hope that the impression you have now gained is that the sponsoring department and not the draftsman is responsible for the policy expressed in a bill. While that is, generally, the position, there are some matters of policy on which the draftsman does take a firm stand. Such matters are the maintenance of the rule of law, evidentiary provisions and the conferring of jurisdiction on courts. The draftsman takes a firm stand on such matters where he considers it appropriate to do so, because he is an officer of the Attorney-General's Department and that department is responsible for these matters. The draftsman may, indeed, draw such a matter (assuming that he cannot reach agreement with the sponsoring department) to the attention of the Attorney-General for his instructions. If the sponsoring department will not accept the Attorney-General's decision on the matter, the matter must be referred to Cabinet for decision. The draftsman may

also suggest to the sponsoring department that it adopt certain procedures because there is a pattern of legislation along that line, and Parliament has previously approved of similar legislation.

CONCLUSION

It will be apparent that drafting a bill can be expected to take a long time. I do hope that any of you who may have to instruct the draftsman in future will allow for that in planning your legislative programme. I have not, myself, kept a record of the time taken to draft any particular bill. However, Driedger in *The Composition of Legislation* does give an example of what he describes as a short normal bill that he prepared for the Canadian Parliament. It must have been a very short bill indeed as the actual drafting took only one day. He states that a departmental committee took three months to consider the problem involved and report on it; the department heads then took two months to decide to sponsor a bill and obtain Cabinet approval; instructions were then given to the draftsman, and the drafting time table was as follows:

Conference with department officers	1 day
Preparation of preliminary draft	1 day
Consideration of draft by department	4 days
Conference with draftsman	$\frac{1}{2}$ day
Preparation of second draft	$\frac{1}{2}$ day
Consideration of second draft by department	12 days
Conference with draftsman	1 day
Preparation of third draft	1 day
Consideration of third draft by department	10 days
Preparation of final draft	2 days
Printing of draft	3 days
Total	36 days

The point Driedger is making is, of course, that the drafting stage usually involves lengthy periods of considering drafts in the sponsoring department, often longer periods than the time taken over the actual drafting. The drafting of a bill always appears to take longer than was expected. That brings me back to the analogy with which I started. A bill can be the result of careful preparation and planning with a full period for drafting. On the other hand, like a baby, its conception can be the result almost of impulse, and its period of gestation reduced to a minimum, so that it emerges pale and weak to face the dangers of premature birth. Even when the choice is not solely in the hands of the department sponsoring the bill, that department can exercise a strong influence in the direction of properly planned parenthood.

IO | THE CHOICE OF THE SPEAKER IN AUSTRALIAN PARLIAMENTS

Geoffrey Bolton

Parliamentary traditions nurtured at Westminster, even the most respected of them, have not always survived transportation overseas. The legislatures of Canada, Australia and New Zealand—to go no further than those members of the Commonwealth classed by Mr. Menzies as the “Crown Dominions”—in a century of self-government have modified not a few of the practices and attitudes taken for granted in the British House of Commons. One such shift in outlook has affected the office of Speaker. In an article in *Parliamentary Affairs*¹ Mr. Philip Laundy has described how the Speaker of the House of Commons derives great prestige from the traditions lifting his office beyond partisanship. Severing his connection with his party, the British Speaker refrains from election campaigning, and takes no part in debates, even to vote in Committee or to further the particular interests of his constituency. Although chosen from the party in power at the time of a vacancy usually from among its back-benchers, the Speaker is subsequently re-elected unopposed, no matter what the politics of the ministry in power. These traditions are supposed to make for an impartial and respected Speaker. Yet hardly any of them have survived outside Great Britain. On Mr. Laundy's showing, this might be expected to have some effect on the Speaker's reputation for impartiality, particularly in Australia, where one of the major political parties expresses an impatient hostility towards many of the ceremonials tending to exalt this office. Few Labour Speakers in Australia have worn the wig and gown, and several have dispensed with the mace; these and similar parliamentary ceremonials are thought to be a useless residue of “fusty precedent”.² Non-Labour politicians, on the whole, profess a respect for these traditions. But the figure of Mr. Speaker is less majestic and detached in Australian politics than in British.

There are a number of reasons for Australia's divergence from British traditions. In the first place, many of the British usages putting the Speaker above party were scarcely established when, between 1855

and 1859, five of the six Australian colonies attained responsible government.³ Even the immunity of the British Speaker from contested re-elections was a new doctrine; in 1780 and 1835 a government had used its majority to replace the previous Speaker by a nominee from within their own party, and as late as 1895 a section of the Conservatives spoke of ousting Speaker Gully when their party took office. If such feeling survived in Great Britain, how could they be avoided in the colonial legislatures, where the Speaker took a more active part in debate? British Speakers had not yet foregone their right of speaking in Committee. In 19th century Australian politics, when so much of Parliament's time was occupied with allocating public works and the expenditure of loan money, it was not to be expected that a Speaker would disenfranchise his constituency by holding back when these matters were discussed in Committee. A Speaker who failed to make good use of these opportunities risked losing his seat at the next elections, and with it one of the few salaried offices open to politicians in the era before payment of members.

Besides voting in Committee, Australian Speakers were often called on to exercise a casting vote. This seldom occurred in the British House of Commons, whose 658 members worked within a fairly well-defined party system. In Australian legislatures, numbering less than a hundred members (sometimes as few as thirty) a shift in allegiance by a very small number often deprived governments of their majority. Since many members had an ill-defined sense of party loyalties, a tie in voting often made the colour of a Speaker's politics important. Although Speakers claimed to cast their votes in conformity with the British practice of leaving the question open to further discussion, in effect they tended to favour their own faction. In New South Wales the first Speaker (Sir Daniel Cooper) was elected in 1856 by a combination of independents and oppositionists by a majority of one over the government nominee. Within three months he had exercised his casting vote against the ministry on the issue of the right of judges to sit in the Legislative Council, and in consequence the government fell. Other Speakers were no less influential. In November 1868 the Queensland Speaker exercised his casting vote four times in one day to save a ministry from defeat, and between 1871 and 1873 one of his successors was the constant mainstay of the government of his time. Except in South Australia—where, despite a succession of short-lived ministries, usage conformed to the British example—Speakers soon ceased to be regarded as above party warfare. Opposition parties in Tasmania in 1863 and Victoria in 1866 ran a candidate for the chair against a retiring Speaker whose ruling they considered partisan, but neither attempt was successful. After the Victorian elections of 1877, Speaker McMahon refused to submit himself for re-election because the incoming government, resenting his rulings during their period in opposition, had determined to replace him by a nominee from within their

own party. And in 1883 Sir George Wigram Allen, who had been eight years Speaker of New South Wales, was defeated by an Opposition nominee, not because he was personally unpopular, but because the choice of Speaker provided the first opportunity to test the strength of parties after a general election, through which his party had lost seats, but had not yet resigned office.

Although the absence of a sufficiently disciplined two-party system during the 19th century sometimes tempted politicians to use the Chair as a pawn in securing party advantages, or in furthering their own ambitions, it was only when the Speaker's election was a test issue to ascertain the strength of parties that voting followed obvious party lines. The feud against Speaker McMahon was an isolated piece of vindictiveness. When one party had a decided majority, it was not usual to oust the Speaker, even if he came from another faction. With the improvement of party discipline towards the end of the 19th century, fewer occasions arose when the alignment of parties had to be determined by a contested Speakership. (Queensland was an exception. After 1871 the Chair always went to the stronger party at the beginning of each parliament, and there were several heated contests on party lines on these occasions.) In the absence of serious party conflict, it sometimes happened when a new Speaker had to be chosen—as in Victoria in 1887 and 1892—that a free vote was conducted between two or three candidates, without much respect to normal party allegiances. The Chair, with its good stipend, public dignity, and promise of a handsome pension on retirement attracted a variety of aspirants, not all of whom were remarkable for judgment or experience. In such circumstances, and in the absence of any set of conventions such as the British had evolved, it was sometimes possible to impugn the motives behind a Speaker's election, and the Chair could not always command respect or decorum. It was long believed that one Victorian Speaker had lost the mace in a house of ill repute, while the Speakers of New South Wales during the eighties and nineties were so ineffectual that the House was known as "the Macquarie-street bear-garden". It remained to be seen whether the more responsible outlook of a Federal Parliament, and the stability imposed by the rise of the Labour party, would advance the standing of the Speakership in the twentieth century.

Although the Labour party is sometimes regarded as the first to bind its members to systematic caucus discipline, it did not regard the Speakership as a party office during its early years. In State politics Labour members tended, whenever a contest occurred for the Chair, to back the candidate from outside its own ranks whose politics seemed more favourable to working class interests.⁴ The older non-Labour groups must bear the responsibility for making the Speakership a party issue. In September 1903, with a Conservative ministry⁵ in office, the Legislative Assembly of Victoria chose W. D. Beazley

for Speaker by unanimous vote. Beazley was an experienced member with a good record of service as deputy-Speaker; he was also a Labour stalwart. Nine months later, after a general election, the same Conservative ministry used its majority to eject Beazley from the Chair, replacing him by one of their own supporters. No dissatisfaction with Beazley's conduct as Speaker was alleged, and the ministry's change of front looked like a deliberate attempt to bring his office into the spoils system. One section of the non-Labour members (the Liberals) supported Beazley, and in January 1909, when the ministry was being re-constituted to include this faction, they made it a condition of their support that a free vote should be taken for the Speakership. At this point, however, several of the Labour members abstained from voting, and Beazley's opponent was again elected Speaker by a substantial majority. The spokesman for the abstainers said: "Whilst the Labour Party is in a minority in this Chamber, I cannot vote in such a way as to diminish its power."⁶ This doctrine, implying that Labour would consent to provide a Speaker only when the party held a majority of seats in the Assembly, cannot have improved the prospects of maintaining the Speaker's impartiality.

Later in 1909 events in the Federal parliament confirmed this trend. Since its inauguration in 1901, the Speaker had been Sir Frederick Holder, a widely respected South Australian chosen with the unanimous support of all parties. On 23rd July 1909, after a session of unprecedented bitterness and turbulence, Holder collapsed in the House with a murmur of "Dreadful, dreadful", and died a few hours later. Following a practice which had by now become almost standard in the State legislatures, each party held a meeting of its caucus to consider the vacancy. The Labour party nominated Charles McDonald, one of their number who had been deputy-Speaker since 1906. The Liberals took it for granted that McDonald must be opposed, and agreed that there should be only one ministerial candidate. By seventeen votes to fifteen their caucus decided to nominate Carty Salmon, who became Speaker the next day on a straight party vote. The Liberals claimed the right, as government party, to choose the Speaker, and rejected without consideration the Labour leader's suggestion that there should be a free conference between parties before the Speaker's election. Labour claimed that they would have withdrawn McDonald's nomination if the Government had put forward any one of a number of other members, but they could not accept a candidate like Salmon, who commanded the barest majority in his own caucus. It was not a graceful period in Australian politics, and the opportunity of placing the Speakership above party was missed. The next year when Labour took office McDonald displaced Salmon, and since that time it has been usual, both in Federal and State politics, for the Speaker to change with the party in power.

It was not long before the impression formed in at least one State that

it was an act of disloyalty to one's party to accept the Chair under a ministry of a different colour. In 1911 the New South Wales Labour government found itself without a majority during two unexpected by-elections. The Labour Speaker resigned to sit on the Government benches, and Henry Willis, a Liberal, was persuaded to accept the vacancy. Willis, "like a good party man", laid down the condition that if Labour lost the by-elections and were dependent on him for continuing in office, parliament should be dissolved. But his fellow-Liberals denounced this transaction. After his nomination he was abused in scandalous terms for the whole of one night by his own party; one member "said that Willis was 'a rogue', a 'vile worm', a 'political leper', a 'ragbag Speaker' and a 'scrap heap Speaker', and then hurled two coppers across the House as an ocular demonstration of the price of honour betrayed".⁷ No other member having been nominated, Willis was at last hustled to the Chair, and amid cries of "Judas!" declared elected. Although the Liberals impugned his election as irregular, and spoke of taking legal action to eject Willis, he continued in office two years, during which he was under constant fire from the Opposition, while his eccentricities displeased the Labour party. He resigned in July 1913; the government then found an Independent Liberal to take the Chair for a few months, and jettisoned him in favour of a Labour man after a general election had increased their majority. Milder but similar scenes occurred in 1920, when a Labour ministry was formed at a time when there were forty-five members on each side of the House. The non-Labour Speaker agreed to continue in office until such time as the Opposition—then divided between two parties—could combine to provide a stable alternative. Although this Speaker was also heckled by his own party, he had an easier time than Willis. In December 1921 he resigned the Chair to test whether the non-Labour parties could form a ministry; on their failure, he resumed office until the next general elections, acquitting himself so impartially that he was chosen Speaker in four later parliaments, thrice without opposition.

Outside New South Wales Speakers who kept office after a change in ministry have not been regarded so severely. During the Second World War a non-Labour Speaker (Nairn) retained the Chair in the Commonwealth House of Representatives for twenty months after Labour took office in October 1941. It was only in June 1943, when his party decided to launch a motion of no confidence, that Nairn resigned the Chair and took his seat on the Opposition benches. In Victoria, where the balance of power for long shifted unsteadily between three or four parties, such a situation has been quite common. Between 1927 and 1947 three Labour ministries supported the election of a non-Labour Speaker, each time with the active support of the Opposition, while for a few months in 1933-4 a Labour Speaker took office—again by unanimous choice—while his party's opponents were

in power. This appears to have been one of the rare occasions when the issue was not decided in advance by party leaders or caucuses; the Speaker in question (Maurice Blackburn) was chosen after several hours of apparently unrehearsed discussion. An even more tolerant state of affairs existed between 1955 and 1959 in Tasmania, where a proportional representation voting system led frequently to a House composed equally of Labour and Liberal members. By an act of 1954 it was provided that when the two parties found themselves equal in numbers, the party with the higher aggregate of votes should form the ministry, and the minority party should have the right of nominating the Speaker and Chairman of Committees. For four years the Liberal Opposition exercised this right, but the enlargement of the House to thirty-five members removed the necessity for this arrangement, and since 1959 Tasmania has reverted to normal Australian practice. (The only apparent deviation in later years occurred in 1962, when Sir Thomas Playford obliged Speaker Teusner, a member of his own Liberal and Country League, to step down in favour of an Independent, Mr. T. C. Stott. This move, however, was dictated not by any belated respect for the principle of impartiality, but in order to secure Mr. Stott's casting vote, which was required to keep the Playford ministry in office after losing seats at a general election.)

With these exceptions, Australian Speakers both for Federal and State legislatures are pre-selected by a caucus of their own party. In the main the Chairman of Committees is supposed to have a strong claim to the succession if a vacancy occurs, but this previous experience is not regarded as essential; in New South Wales for at least the past forty years no Chairman of Committees has risen to be Speaker. Sometimes the government prefers to nominate a respected elder statesman of the party; but there are several examples of a young Speaker for whom the office was a preliminary to holding cabinet rank. There have been governments—the Bruce-Page ministry of 1923-9 was one—who found the Chair a convenient means of disposing of colleagues who, perhaps through ineptitude, perhaps through their independence or potential rivalry to the party leader, could not be conveniently retained in the Cabinet or left on the back benches. Other Speakers have been poachers turned gamekeepers—members who distinguished themselves in opposition by their ability to embarrass the government and Speaker by a fertile knowledge of procedure and points of order. However chosen, the Speaker is a party nominee and is expected to behave as such. Federal politics have set the example. In 1921 Sir Elliott Johnson several times saved the Nationalist ministry by his casting vote. A decisive test case arose in 1929, when a group of malcontent Nationalists joined with the Labour Opposition in overthrowing the Nationalist-Country party government. On a crucial division in Committee, Sir Littleton Groom, the Nationalist Speaker, abstained, citing British precedent as his

guide. The government fell, and was defeated at the ensuing election. Groom was hotly attacked by his own party, on the grounds that by abstaining he disenfranchised his constituency, and that by accepting Nationalist endorsement at elections he bound himself to vote for the party. No pains were spared to ensure his defeat in a constituency which he and his father had represented for sixty-seven years, and although he later came back to Parliament, his party never appointed him to another post. Groom's experience showed clearly that British precedent would not be accepted in Australian politics. A recent disturbing example of a Government's readiness to override the Speaker's rulings arose in December 1953, during the régime of Speaker Cameron. A Liberal who forcefully upheld the dignity and independence of the Chair—he declined to attend party meetings while Speaker of the Commonwealth Parliament—Cameron ruled that it was unparliamentary for the Prime Minister (Mr. R. G. Menzies) to state that a Labour member had "communist associations". The Liberals at once used their parliamentary majority to carry a motion of dissent with this ruling. A British Speaker, after such a snub, might have resigned. Cameron seems to have acquiesced, as he remained Speaker until his death in 1956, and no conflict has since occurred between a government and an over-independent Speaker.

Although the Speaker is thus the creature of his party, it would be misleading to suppose that minority or Opposition groups have no redress against bias or inadequacy in the Chair. It has been suggested that Australian politicians prefer their present system, as the Opposition's capacity for attack would be impaired if one of its members were responsible for the conduct of the House. If an Opposition feels aggrieved at partisan conduct by the Chair, it may always relieve its feelings by a motion of no confidence. This is not so uncommon or momentous as it would be in Great Britain. Four such motions were moved in the Federal Parliament between 1944 and 1950, the Speaker defending himself on one occasion from the government front bench. It is also usual for the Opposition to go through the motions of nominating one of their own number against an unsatisfactory incumbent. Even although such a gesture is doomed to defeat—especially in the Commonwealth House of Representatives, where standing orders allow the leader of the House to move the closure at any time during a debate on electing the Speaker—it sometimes appears to carry weight with the ministry; as when in 1959 the Labour government of New South Wales dropped the controversial Speaker Lamb in favour of a nominee whom all parties accepted unanimously. A fair and popular Speaker will, however, be re-elected without opposition as long as his party remains in power. In Western Australia, a State where party strife is muted, no Speaker has been opposed or made the subject of a want of confidence motion since 1917, and the Chair appears to be well respected. Here the party nature of the Speakership has done no

harm; but it may be otherwise in Federal politics. Unassisted by any official similar to the Speaker's Council in Great Britain, and bound by stronger party ties than his British counterpart, the Speaker in Australia may be handicapped in forming impartial decisions. Many occupants of the Chair have succeeded in doing so; but it cannot benefit Australian parliamentary traditions for minority groups to have plausible grounds for questioning the credentials of the man appointed to guide and interpret the rules of debate and business. In departing from past tradition, and placing the Speaker above party, Sir Robert Peel stated a view worthy of consideration in modern Australia:

. . . it seems to me more becoming to a great party to act upon its own principle and even apply it against itself, than to say to its opponents, "Though our principle was the right one, yet by way of retaliation, we will adopt yours".⁸

II | THE FOREIGN AFFAIRS COMMITTEE OF THE AUSTRALIAN PARLIAMENT

H. B. Turner

The "Joint Committee on Foreign Affairs", more simply the Foreign Affairs Committee, is relatively new and certainly anomalous both in the context of the Australian Parliament and in relation to the Parliamentary system of government. It is not, therefore, surprising that it should be the subject of controversy.

The birth of the idea is to be found in the new situation confronting Australia at the conclusion of World War II. In the first place, the fall of Singapore jolted us out of our mother's arms, from colonial insouciance into a sense of national responsibility, into the realisation that our foreign relations and defence were no longer the sole concern of our imperial protector, but matters for our own initiative. And, in the second place, it happened that these new and vital responsibilities fell into the hands of a Minister for External Affairs who was a brilliant individualist, a bird capable of "changing plumage in mid-flight", the late Dr. H. V. Evatt. In this atmosphere it was felt that Parliament required more knowledge in this unfamiliar field, and that policy should be based on greater stability and continuity. Moreover, Canada and New Zealand, sister dominions under the Parliamentary form of government, had recently led the way.

So it was that in November 1949, on the eve of an election that removed the war-time Labour government from office and replaced it for sixteen years with administrations headed by Mr. (later Sir Robert) Menzies, the joint policy speech of the victorious coalition Parties promised a Foreign Affairs Committee. At this stage it was merely an idea, born of the circumstances of the time, vague, indefinite, adopted in principle.

In February 1950 the Governor-General, outlining the new Government's programme, said: "It is proposed to establish a Parliamentary Standing Committee on foreign affairs to give opportunities for full study and to serve as a source of information to Parliament." Elaborating upon this, the new Minister for External Affairs, Mr. (later Sir Percy) Spender, said in March: "The Government . . . proposes to

establish . . . a Standing Committee on Foreign Affairs which can give constant attention to the broad issues of foreign policy . . . [It] should have a broad mandate to study External Affairs in the widest sense . . . [It] will be able, because of its special studies and information, to give a lead to the House in debates on foreign affairs, but it will not itself 'make' policy since that is, and must remain, the responsibility of the Executive. Its great value will be in its ability to give detailed study to the great problems of the day and to pass on to the Parliament the expert knowledge which it will in the course of time acquire . . . [It] should not be too large since much of its value will depend upon the depth of the studies it undertakes . . . [It] should be authorised also to inquire into matters referred to it by the Minister."

From this general statement it may be gathered that the basic concept was the study "in depth" of "the great problems of the day" and the "passing on to Parliament" of this "expert knowledge" by "giving a lead to the House in debates". It was not to be the function of the Committee to "make" policy, this being the prerogative of the Executive.

What were the implications of this general statement? If there was to be study in depth and the acquisition of expertise on the part of the proposed Committee, obviously it must have access to as wide a range of information as possible, both from the Department of External Affairs and from outside sources; and this immediately raised the question whether and, if so, under what conditions, secret and confidential information could be made available to the Committee by the Department. A further question concerned the staffing of the Committee if it was to pursue researches effectively. Again, if information was to be "passed on to the Parliament", this could be done in one or more of several ways—by the content and quality of speeches made by members of the Committee in the course of relevant debates, by open inquiries conducted by the Committee, and by reports laid on the table. Finally, if the Committee was to study "the great problems of the day" and "pass on to the Parliament" the results of its investigations, how was this to be reconciled with the sole prerogative of the Executive to "make" policy? What seems to be implied in this statement is that the Committee should concern itself with the "broad" issues rather than detailed decisions—for example, the principles upon which our foreign aid should be based rather than the desirability or otherwise of a particular project. But it is difficult to see how the Committee could study a topic and present the fruits of its study to Parliament without influencing, or tending to influence, if not to "make", policy.

In February 1952, two years after the general statement of intent by his predecessor, it fell to the lot of Mr. (later Lord) Casey, the then Minister for External Affairs, to put specific proposals to the Parliament.

The tentative approach to the experiment was exemplified at the outset by the impermanent basis selected to give authority to the Committee. Whereas the other two major committees of the Parliament, the Public Accounts Committee and the Public Works Committee, were established by statute, the Foreign Affairs Committee was constituted by a resolution of the Houses requiring renewal at the commencement of each Parliament. It may of course be argued that this was inevitable in view of the refusal of the Opposition to serve on the Committee. Be this as it may, uncertainty about the future, particularly in the event of a change of government, and consequential staffing problems, particularly in respect of research facilities, have inevitably been a handicap.

The terms of the original resolution setting up the Committee were debated at length in the Parliament and require consideration in some detail because they highlight the problems associated with the integration of a Foreign Affairs Committee into a Parliamentary system of government.

The more important terms were as follows:

That a joint committee be appointed to consider such matters concerning foreign affairs as are referred to it by the Minister for External Affairs.

That twelve members of the House of Representatives be appointed . . .

That the Minister . . . shall make available . . . information within such categories and on such conditions as he may consider desirable.

The Committee . . . will sit in camera and their proceedings shall be secret.

The Committee shall, for considerations of national security, . . . forward reports to the Minister . . . , but on every occasion it shall inform the Parliament that it has so reported.

The Committee shall have no power to send for persons, papers or records without the concurrence of the Minister . . . and all evidence . . . shall be regarded as confidential to the Committee.

Dr. Evatt, the then Leader of the Opposition, indicated in a series of amendments the terms upon which the Opposition would presumably accept membership of the Committee, because he expressed himself as being in favour of the idea.

Firstly, he proposed that the Committee should consider matters referred to it by either House, as well as by the Minister, and such matters as might be decided upon by the Committee itself. This was rejected by the Minister, but in 1954, upon the reappointment of the Committee, the relevant term of reference was altered to read: "That a Joint Committee be appointed to consider foreign affairs generally, and in particular, to inquire into matters referred to it by the Minister . . ." This conceded half of what Dr. Evatt had sought two years earlier.

Secondly, he moved that six of the twelve members to be appointed

from the House of Representatives should be drawn from the Opposition. It is difficult to believe that this indicated any genuine desire to see the Committee firmly established on a basis that would be acceptable to either party in government. When in 1956 the Committee was enlarged to a total of twenty (thirteen from the House of Representatives and seven from the Senate), the intention was made clear that there should be twelve Government members and eight Opposition members.

No exception was taken to the Minister's determining what categories of information he would make available to the Committee and on what conditions he would supply it.

Thirdly, however, objection was raised to the provision that meetings of the Committee should all be held in camera and that the proceedings should all be secret. In 1953 this point was met by an amendment enabling the Committee to meet in public if the Minister should in particular cases give his consent.

Fourthly, the Opposition moved that, when the Committee submitted a report to the Minister, either House might require it to be published. The Government insisted that this should remain a matter for the Minister's discretion. However, in 1959 it was provided that, where a report was furnished to the Minister on his request and the Opposition was serving on the Committee, a copy of the report should be supplied to the Leader of the Opposition for his confidential information. And it was further provided that the Committee might communicate with the Minister but that all such communications and the fact that they had been made should be confidential to the Committee and the Minister. This of course operates in the reverse direction from publicity.

Fifthly, subject to the safeguard that the Minister might determine what categories of information should be made available to the Committee, it was maintained by the Opposition that the requirement that the Committee should not be empowered to send for persons, papers and records was unduly restrictive. This provision has been liberalised on three occasions since 1952, and on the last, in 1964, the Committee was given power to invite persons to give evidence before the Committee and, with the consent of the Minister, to call for official papers and records; but evidence submitted in camera was to remain confidential to the Committee and the Minister.

Finally, in 1964, to meet a subsequent objection raised by the Opposition, Sir Garfield Barwick, the then Minister for External Affairs, made a further concession, allowing for the expression of a dissenting opinion in any report or communication submitted to the Minister. But the reasons were to be summarised by the Chairman and agreed upon between him and the dissenting member. The Opposition expressed itself as being dissatisfied with this compromise.

The official objections of the Labour Opposition to service on the

Committee have centred upon two principal matters: first, lack of autonomy—for example, the power to hold open meetings, to call for persons, papers and records, and the right of Parliament to call for the publication of reports; and, secondly, the proposed balance of representation between the Parties—both the preponderance of government members, and the inclusion of a representative of the Democratic Labour Party.

However, it has been questioned whether the reasons advanced are the true ones. The Government has made important concessions; and sceptics are dubious whether Labour in office would be as keen on autonomy for the Committee as Labour in opposition professes to be. It is believed in some quarters that the basic reason for Labour abstention is the fear that participation could lead to a bipartisan approach to foreign affairs that might blunt the edge of a distinctive policy possessing an appeal to the electors. But in fairness it should be added that some minds, darkly suspicious, see the present impasse as favourable to the Government, because it can accuse the Opposition of not being serious about foreign affairs while denying it an opportunity to influence policy. Be all this as it may, the absence of the Opposition from the Foreign Affairs Committee immeasurably weakens its prestige, its influence and its voice, or maybe two voices, and imprints upon it the character of impermanence.

However, whatever differences may have been expressed when the Committee's charter was being framed, debated and modified, it remains to consider the actual results achieved over the past fourteen years and the extent to which failures may have been due to defects in the terms of reference and how far to other causes.

Certainly membership of the Committee has been coveted by Government members and the competition for places has been keen. Although technically, in accordance with the usual practice in respect of Parliamentary committees, the members are appointed by the leader of the Government (and of the Opposition in the event of its participation), in practice the members have been elected by ballot in the respective Party rooms (Liberal and Country Party, Senate and House of Representatives). And the reasons why particular persons are chosen are as various as the number of voters who participate in the selection. But it is a fair generalisation to say that the successful candidates represent a cross-section of Government members both in age and ability and as between the States. At one time or another it has proved a useful experience for men who subsequently became Ministers: for example, A. R. Downer, F. M. Osborne, H. S. Roberton, D. A. Cameron, A. J. Forbes, F. C. Chaney, D. E. Fairbairn, B. M. Snedden, L. H. E. Bury and J. G. Gorton; and it has included former Ministers, and men who have been or have become a General, an Air Vice-Marshal and a Judge.

The Committee early adopted the practice of meeting at 10.30 on

Tuesday mornings prior to the sitting of the Parliament and, when thought expedient, from time to time during adjournments of the Houses. The normal venue for meetings has been Canberra, but on some occasions during recess it has met, to suit the convenience of members, in Melbourne.

The usual procedure for the full Committee is to hear evidence, sometimes recorded and sometimes not, from a great variety of experts. It has of course drawn extensively on the resources of the Department of External Affairs. When particular issues have been "hot", it has had background briefings from the relevant officers; and it has had the advantage of hearing from ambassadors returning to Canberra for consultation or at the conclusion of tours of duty in foreign capitals. But it has by no means confined itself to the Department. It has frequently been addressed by visiting politicians and diplomats, besides ambassadors and high commissioners and their officers resident in Canberra. It has cast its net wide to include academics, journalists and others who have had opportunities to study and observe developments in various countries overseas. From time to time it has profited from the commentaries of its own members or other members of the Parliament who have travelled with official missions or under private arrangements. Witnesses have invariably submitted themselves to questioning at the conclusion of their statements. In addition, Ministers have supplied the Committee with official papers and have discussed with it a variety of matters. Observers from the Committee have attended conferences within the field of international affairs held on Australian soil or in the South Pacific region, and from time to time the Committee has entertained distinguished visitors from abroad.

The more detailed studies have been made by sub-committees prior to consideration by the full committee and over the years have included such topics as Allied policy in the Far East, Antarctica, the Colombo Plan, Disarmament, West New Guinea, Extradition, Trade with Communist China, South-East Asia, Regional Economic Development, the future of the United Nations, New Guinea and the South Pacific, Laos and South-East Asia, Africa and the Middle East, Economic Relations, Economic and Technical Assistance, S.E.A.T.O., and Berlin.

Generally, the Minister has not referred matters in set terms to the Committee for study, but in the course of discussions with it he has indicated the kinds of topics that he considered worthy of attention. And, in turn, the Committee has from time to time put certain views before him. In short, the relationship has been in the main one of informal consultation. The Committee has in fact reported to the Parliament on only five occasions. In 1952 it produced a report on the Peking Peace Conference, and this was printed as a Parliamentary paper; in 1953 it submitted a report on the Commit-

tee's activities and functions and in 1954 a report on Indo-China, but neither of these was tabled. In 1956 it made a report relating to extradition arrangements between Australia and Communist countries; this was tabled later in the year, but no motion for its printing was made and it was not debated. In 1963 a report on Berlin was tabled and printed as a Parliamentary paper.

Throughout its life the Committee has been fortunate in having as its secretaries able and devoted officers of the Parliament, drawn from the Senate, and a succession of liaison officers from the Department of External Affairs who have rendered indispensable assistance. They have of course been available on a part-time basis only, and the Committee has never had the services of a research assistant.

It may be concluded from what has been said that the Committee has not been without an infusion of able members and that it has not lacked adequate sources of information. It may or may not have influenced policy: because the fact and the nature of communications with the Minister are confidential, no data on this point are available. The only ways in which it could have served as "a source of information to Parliament" are through the speeches of members in the course of debates on foreign affairs, through pertinent questions eliciting answers that would not otherwise have been given, and of course through published reports, especially if made the subject of debate on the technical motion "that the paper be printed". In fact, full dress debates on foreign affairs, usually initiated by a ministerial statement, sometimes on a motion seeking approval of a treaty, have been infrequent; and it is a matter of opinion whether the standard has improved and, if so, whether this is due to any better understanding derived from the studies of the Committee. It is the impression of this writer that the contributions of members have gained over the years in realism and a better appreciation of the Australian interest and that this is not unrelated to the contact and discussions that have taken place between the Committee and those who have come before it. Nevertheless, it is doubtful whether these improvements, even if conceded, can be regarded as "a source of information to the Parliament". What appears incontestable is that the reports tabled, or even submitted, have been few in number and in general have dealt with topics of peripheral importance to this country. In summary, it may be concluded that the Committee has been a useful study group but has done little to analyse the great issues of the day and to enlighten the Parliament and the people in the field of foreign relations. And this can be traced to the determination of the government to safeguard the security of External Affairs information and Ministerial responsibility for policy.

The question, then, is squarely posed whether under the Parliamentary system of government the legislature can have any effective voice in the formulation of foreign policy. Must this be a close

preserve for Ministers and officials while Parliament beats the air in benighted ignorance?

Inevitably the mind of the simple inquirer will gravitate to the prestigious Senate Committee on Foreign Relations in the Congress of the United States; and he will recall the rigorous questioning of Secretaries of State and other high officials by this Committee, its very great power in regard to the terms of treaties and appropriations designed to implement the Administration's foreign policy, and the publicity accorded to its reports and to the public statements of its Chairman. While he will know that the President, advised by the Secretary of State and others whom he chooses to consult, generally has the last word on issues touching foreign policy, he will also know that Congress, holding the purse strings, is not without influence, led by the relevant Committees. Why, he will wonder, is Parliament so utterly impotent in this field?

If he seeks an answer from a constitutional lawyer, he will be told with some degree of smug satisfaction that the difference is due to the fact that under our form of government the Executive is within and part of Parliament itself. Ministers are also members of the legislature, whereas members of an American administration, presiding over its various departments and agencies, are simply chosen and appointed by the President from outside Congress. This will be described as the principle of "separation of powers", the legislative and executive, alien to our superior system.

What are the realities of Parliamentary control stemming from the fact that Ministers are members of the Parliament? True, they can be questioned upon their administration on any day of the week when Parliament is sitting. Although they can refuse to answer a question, they seldom do this in plain blunt terms. They can ask that the question be put on the notice paper, and may neglect to answer it for months. They can give an evasive answer, which they frequently do, whether orally or in writing. In short, it must candidly be confessed that the American system of summoning "officials"—that is, Ministers in our terminology, as well as other members of the public service, as we should describe them—before Congressional Committees to make statements and submit to cross-examination upon them at public hearings is a far more searching and efficient method of eliciting information and defence of a policy than is possible through questions under our system.

Again, the constitutional lawyer will point out that under the Parliamentary system a government that loses the support of a majority in the House of Representatives must inevitably resign. Surely this is a most salutary control by Parliament over the Executive! On the other hand, a President and his officials are not amenable to this powerful control by Congress. Perhaps the only satisfactory answer to this line of argument is: "Poppycock". Once only

within the memory of the present generation has an Australian government been dismissed from office by Parliament. This was when in the early phase of World War II two members of the House of Representatives withdrew their support from the then Prime Minister, the Rt. Hon. R. G. Menzies, installing an administration drawn from the opposing Party in his stead. Otherwise, Party discipline in the modern age ensures that Ministers may "get away with murder" before a Parliamentary majority is prepared to dismiss them and their government from office. This is the hard reality of Parliamentary life.

What is the lesson to be derived from American procedures? It is not that a Committee should set itself up in opposition to a Minister so that responsibility for policy is blurred and divided, but rather that thinking should be stimulated by the constant posing of pertinent questions and the canvassing of fresh initiatives. This is peculiarly difficult in the field of foreign affairs where delicate negotiations may be prejudiced or fragile relationships imperilled by brash statements at inopportune moments. And this is especially the case where a foreign country believes, however mistakenly, that a point of view put by some members of Parliament supposedly in possession of confidential information is either prompted by or represents the attitude of the government. In short, it may well be that the too close association of a Foreign Affairs Committee with a Minister and Department of External Affairs precludes it from the function that it can best perform. It may well be that it would serve its purpose better by deriving its information from public sources, using this as a goad to compel a government into fuller explanations and a sterner defence of its policies or by force of reason to modify them. Indeed, it is the very openness and uninhibited candour of public debates, stimulated by inquiries of Congressional committees, rather than the direct power of the legislature over appropriations, too often stultifying firm government, that Parliament might well emulate and adopt if it is to survive as something more than a rubber stamp whose members are little more than messenger boys between their constituents and government departments. But if committees are to be sufficiently informed to pose the right questions and suggest alternative solutions, they require, as the American committees have, a competent research staff and an adequate Legislative Reference Service. This depends upon the recognition by members of their situation and their need.

part four | ELECTIONS

The study of electoral behaviour, after a belated start, has become established in Australia, and studies by Mayer and Rydon,¹ Rawson and Holtzinger,² Carboch,³ Rawson,⁴ and Burns⁵ are available. However the electoral system has attracted less attention, and two articles by Dr. Joan Rydon are reproduced here, both to provide factual data and to illustrate techniques whereby the mechanics of voting may be studied. Dr. B. D. Graham's "The Choice of Voting Methods in Federal Politics, 1902-1918" gives the definitive account of the adoption of preferential voting in Australia, and supplies a useful corrective to erroneous versions of the decision. The papers by the late Chris Masterman and the editor on donkey voting and compulsory voting are included with a similar consideration in mind. Both topics occasion much ill-informed comment, and education in political science has to disabuse almost as often as it has to inform.

12 | ELECTORAL METHODS AND THE AUSTRALIAN PARTY SYSTEM, 1910-1951

Joan Rydon

It is not my intention in this paper to discuss general questions of the extent to which the electoral systems of any country determine the character of the party systems. Some writers have probably overstressed the connections—*e.g.*, E. E. Schattschneider, who has baldly stated:¹ “The American two-party system is the direct consequence of the American electoral system.” Some of the weaknesses in such a view have been clearly revealed in Leslie Lipson’s study of “The Two-Party System in British Politics”.² He believes there is as much evidence to show that the parties are the prime determinants of the electoral system as that the latter determines the parties. This hen and egg question—which is the cause and which the effect—is irrelevant for my purpose.

Whether or not we accept the view that political parties arise primarily because of the need to organise the electorate, it is clear that elections are a focal point in the working of any party system. Whatever its origins, a political party concentrates on winning elections, and becomes to a great extent an organisation formed around elections.

If, then, we are setting out to study the working of any particular party or party system, it will be necessary to consider the interaction between the particular party or system and the prevailing electoral system. This paper is a very limited and very elementary attempt to do this for Australia. I may forestall some obvious criticism by emphasising with Maurice Duverger that “the factors conditioning the political life of a country are very closely inter-related so that any study of the effects of any one of those factors considered in isolation is necessarily artificial”.³

It is not surprising that, in the general social and political atmosphere of Australian democracy, there should have been great variety,

novelty and experimentation in electoral laws and voting systems. Australia was to the fore in the extension of the franchise—particularly to women—and in the introduction of the secret ballot. There have been frequent changes in the electoral laws, and Australian Parliaments have spent considerable time debating the methods by which they should be elected. Every detail of the elaborate electoral apparatus—the qualifications required of electors and candidates, the machinery for compiling rolls, the rules governing the distribution of propaganda, the provisions for postal and absentee voting, etc.—has doubtless had some effect on political life, and most would be well worth investigating. I will, however, limit what I have to say to the operation of compulsory voting and to the methods of division into electorates and counting of votes used in the Lower Houses of Australian Parliaments. I will concentrate on the general elections for the Federal House of Representatives (which are the only ones I have been able to look at in any detail) and the working of preferential voting therein. Thus I will not touch upon the varied and complex methods used in the election of State Upper Houses, though it is obvious that these have been of far-reaching importance in the political life of Australia and the development of the party system.

The study of any aspect of Australian politics is complicated by the federal system. Political parties are organised not only to fight elections on the basis of Federal and State electorates (and, sometimes, local government areas), but also to fight Senate elections on a State-wide basis and, occasionally, referenda on a nation-wide basis. Any thorough study would need to include analyses of all these different elections and referenda. Since all Australian parties are organised primarily on a State rather than a national basis, the absence of analyses of State elections renders difficult the study of Federal elections.

There are, and have been, considerable differences between the electoral systems of the Commonwealth and the various States. One might think that this would facilitate the comparisons between the working of these different systems. To some extent this is probably true, but the Federal factor intervenes. The whole country must operate under Commonwealth laws, and the same political organisations operate at Federal and State elections, hence there will always be interactions between the different systems; they cannot be treated as isolated cases of particular electoral systems. A good example of this can be seen in the operation of compulsory voting, which was introduced by Queensland in 1915, the Commonwealth in 1924, and at scattered intervals by other States, South Australia being last in 1944. Between 1915 and 1924, the Queenslanders, who were compelled to vote at State elections, did so in increasing numbers at Federal elections. Similarly, after compulsion was introduced in the Common-

wealth sphere, the percentage polls in those States retaining voluntary voting showed significant increases.

Compulsory voting is an aspect of Australian elections which would merit detailed study. It is not easy to generalise as to the reason behind its introduction, nor to distinguish clear-cut party attitudes. Perhaps the root cause of its adoption can be found in the desire to increase the honesty of elections and the accuracy of electoral rolls, for it was regarded by many as a logical corollary to compulsory enrolment, introduced by the Commonwealth in 1913.

The results of compulsion are clearly seen in the increase of enrolled electors who vote—the figure which had fluctuated between 45 per cent. and sixty per cent. in early Commonwealth elections rose to over ninety per cent. once compulsion was introduced. The actual difference may be somewhat greater than these figures suggest, for they represent the percentage of electors enrolled, not the percentage of the adult population, and the significant increase in the numbers on the rolls which followed compulsory enrolment suggests a considerable difference between the two.

One would expect that compulsion would increase informal voting, yet the election of 1925 produced extremely few informal votes, and there was no evidence of protest casting of informal votes. There has, however, been some increase in the average informal vote since 1925, but this may in part be due to more complex systems of voting—it is certain that the greatest increases have occurred after the introduction of such complexities; *e.g.*, preferential voting and Proportional Representation in the Senate. In referenda the complexity factor would operate less, though even here Professor Parker has observed that the percentage of informal votes increases with the number of questions asked.⁴ One might, however, consider the extent to which compulsory voting enables the adoption and continuance of complex systems of voting. Without compulsion, it is possible that the numbers voting would have fallen heavily in protest at difficult and complicated voting methods: *e.g.*, Proportional Representation in Senate elections.

Parliamentary debates on the introduction of compulsory voting showed that neither party was at all sure as to the effects on its electoral fortunes. It seems improbable that it has favoured either party, though it has raised the percentage poll in country and "blue-ribbon" seats. It may well have tended—in conjunction, of course, with other factors—to strengthen the two-party system; to operate in favour of the larger parties against lesser known candidates, small groups or Independents, and perhaps at times in favour of sitting members. It may also have increased the trend to almost equal division of the votes between the two major parties—an examination of the overall party figures for the House of Representatives and the Senate would be useful in this regard. The figures for referenda show no clear effect of compulsory voting.

Compulsion has, however, affected methods of campaigning. Emphasis has shifted from getting the voters to the polls to the issuing of "How to Vote" cards. The swinging voter has probably assumed greater importance, for parties—more assured than ever of the votes of their regular supporters—direct their campaigns to the middle group. They probably, therefore, tend to broaden their appeals, adopt moderate policies, and often come close to the policies of their opponents. Professor Crisp has suggested that

the decline in party effort seriously and permanently to convert voters to their general philosophies and programmes may be attributable to compulsory voting. For, full converts or not, people will turn out on election day and will vote one way or another. . . . Certainly compulsory voting has not contributed to the serious political education of the electorate, it may even have discouraged it.⁵

Other results have been to increase the accuracy of electoral rolls and facilitate the prediction of election results—swinging seats, etc.—and the study of political behaviour, thus assisting party organisers, gerrymanderers, Mr. Morgan and his Public Opinion Pollsters, and also political scientists.

Compulsory voting has thus probably reinforced tendencies already operating in the electoral system. Elections for the majority of Lower Houses in Australia are based on single-member electorates. This means of course that election results are determined not only by the size of party votes but also by their geographical distribution. The drawing of electoral boundaries is therefore very important—it may be possible for slight changes to effect great alterations in the composition of a Parliament. One condition of electoral equality is that the number of electors in each electorate should be approximately equal, and be kept that way by frequent redistribution to keep abreast of population change. Such a condition has in the past been approached only by Tasmania and the Commonwealth, and even in the Commonwealth there is some discrepancy since—in deference to the federal principle—the Constitution provides that no State shall have less than five seats. (Therefore the quota for Tasmanian seats is lower, and Tasmanian votes have greater value, than those of the mainland).⁶ In all States except Tasmania the quota for electorates has usually been less in country than in city areas; *e.g.*, New South Wales 1950: city electorates averaged 23,000 voters, country 17,000; Western Australia: metropolitan elector's vote worth only half that of a country voter. Over-weighting of the country areas has generally helped the non-Labor parties (*e.g.*, Victoria, where there have been three types of electorates—metropolitan averaging 26,000 voters, urban, 20,000, and country, 14,000; South Australia, where the inequalities have been exaggerated by population changes and the failure to alter boundaries over a long period). In Queensland, how-

ever, over-representation of pastoral and sugar-growing areas operates in favour of Labor. The distribution of the electorates affects not only the relative strength of the parties in Parliament, but also their nature and organisation; *e.g.*, the importance of the Country Party in Victoria has been related to the electoral system, while the governing parties in South Australia and Queensland have doubtless been affected by the lasting hold they have maintained over those States.⁷

However, even when the distribution is fair in the sense that the votes of electors have equal values, the position of the electorates in relation to the concentrations of people with particular political views may favour one party against another. The margins by which seats are won will determine the extent to which party votes are lost in the overall value of the votes. In the Commonwealth, Labor has generally been slightly under-represented because it tends to win its seats by greater majorities than do other parties (*e.g.*, R. H. Barrett has estimated that, since 1928, Labor has won its seats by an average of 59.1 per cent., while the Liberals—in the sense of all major non-Labor parties such as Nationalists and U.A.P.—have averaged 58.2 per cent., and the Country Party 57.4 per cent. The general average by which seats have been won over this period is 58 per cent. Labor has won 44 per cent. of its seats by more than this, the Liberals 43 per cent. and the Country Party only 38 per cent.).⁸ There is always the prospect that the non-Labor parties will win more seats than Labor even though the latter has received more in total votes. This actually happened in 1940 (see Table 1) when the non-Labor parties, with 44.9 per cent. of the first preference votes, won 51.3 per cent. of the seats, and Labor, with 48 per cent. of the votes, won only 48.6 per cent. of the seats.

Quite apart from whether the accidental geographical distribution of the electorates favours one party against another, the most significant feature of the single-member electorate system is that it always tends to exaggerate the representation of the winning party, and the greater the victory, the more will it be exaggerated proportionately. This is usually regarded as the virtue of the system, since it “finds majorities” by accentuating the differences between the winners and losers.

In general terms, this is an illustration of the influence of the “swing-ing” electorates: that is, as the percentage total vote for a party increases, it wins “swinging” seats (by small majorities) and hence the average majority for all the seats it wins diminishes. The party polling the greatest percentage vote thus tends to win its seats more cheaply in terms of votes than do the other parties.⁹

Table 1 shows how this operates in Commonwealth elections—*e.g.*, in 1917 non-Labor, with 54.2 per cent. of the votes, won 70.7 per cent. of the seats; Labor, with 44.5 per cent. of the votes, won only 29.3 per cent. of the seats. Thus a difference of 9.7 per cent. of the votes resulted in a difference of 41.4 per cent. in the seats won. Again, in

1946, Labor, with 51.8 per cent. of the votes, won 59.5 per cent. of the seats, while non-Labor's 47.4 per cent. of the votes secured for it only 39.2 per cent. of the seats—a difference of 4.4 per cent. of the votes becoming a difference of 20.3 per cent. of the seats. Barrett has estimated that since 1928 winning parties have averaged 9.2 per cent. more seats than votes—though here again there is the difference that Labor Governments have secured an average of 8.7 per cent. more seats than votes, while non-Labor Governments obtained 9.7 per cent. more seats than votes.¹⁰

Of course there will be a limit to the way in which the system finds majorities—in theory it should be when the party votes are equal, and thus a deadlock of equal representation should result. Owing to the accidental under-representation of Labor, such a deadlock did in fact occur in 1940 but the Labor vote was higher than the non-Labor.

As a corollary to its exaggeration of the victory of the strongest party the single-member electoral system discriminates against the weaker parties. This discrimination is moderate against the second party, but against the third, fourth, etc., parties it becomes progressively stronger until it extinguishes their chances of winning seats altogether. The odds against a minor party are always very great since it can be no more than a third party, unless its strength is strongly concentrated in one region or section. Table 1 shows that in Commonwealth elections, Independents have usually received a smaller percentage of seats than votes. In this Table, other candidates have been grouped under the two main headings, Labor and Non-Labor. A break-down into specific parties shows that most mushroom parties such as the People's Protestant Party, the One Parliament for Australia, the various women's parties, the Liberal Democrats and the Services and Citizens Party have failed to gain any representation at all, though it must be admitted that these groups have never polled a significant proportion of the votes. In 1937, however, the Social Credit Party contested a large number of seats and in 1934 polled almost five per cent. of the votes without winning any seats. Between 1931 and 1940, when the Labor Party was split, the minority group was always under-represented in relation to its total vote, and the under-representation would probably have been greater if the group had not been helped by the fact that its support tended to be concentrated regionally.

One would expect that the only kind of minor party which would not be drastically discriminated against by the single-member electorate would be one which has strongly concentrated itself in certain regions. A small, localised party which contested a limited number of seats might survive because, within its region, it might become one of the two major parties, and within this region one of the major, nationwide parties might be forced into the position of third party, and suffer accordingly. This has been true to some extent of the Country

Party and the minority Labor parties. Alternatively, a regional party may serve more or less as the local wing of a major party—probably that which it has displaced in its own region. In Canada, under single electorates, there are four parties, but Duverger emphasises that two of these are localised, and there are generally only two parties competing in any one electorate. It has been suggested that the reason why sectional parties do not manage to survive in the U.S.A., even when they have strong regional support, is to be found in the predominance of Presidential elections which tend to influence the behaviour of parties much more than do Congressional elections, and to force regional groups to coalesce into two main parties. In Australia we have nothing, of course, to compare with Presidential elections, but we do have Senate elections fought on a State-wide basis, and it is noticeable that, while the Country Party can exist as an independent party in the local elections for the Lower House, to gain any representation in the Senate it is almost inevitably forced to ally itself with the major non-Labor party.¹¹

There is no evidence of the system discriminating against the Country Party. It has not only fared better than any minor party, but has always been over-represented in relation to the two major parties. Whether the non-Labor parties have been in or out of office, its percentage of the total vote has remained remarkably stable, and it has always been over-represented in that it has secured a significantly higher percentage of seats than votes. This favourable position of the Country Party would seem to account almost entirely for the over-representation of non-Labor in relation to Labor.

A partial explanation of this favourable position of the Country Party can be found in the working of preferential voting. Doubtless it is also helped by the fact that its support is concentrated in certain States, and in certain parts of those States. We have seen that it tends to win its seats with smaller majorities than do other parties. Detailed studies of electoral geography might supply the basic reasons for the Country Party's strength. The break-down of Commonwealth election figures by States might also supply some clues to the problem. It may indeed be argued that my analysis means little because it does not include such a break-down. There are also other problems—*e.g.*, uncontested seats, the importance of personalities, regional differences, and decisions *re* party affiliations.

Granted these limitations, there is still striking evidence of the tendency of the single-member electorate system to over-represent the winning party, and to swamp most minor parties. If for the moment we consider the Country Party as part of one non-Labor party, we can say that single-member electorates have bolstered the two-party system in Australia.

If, however, a system of single constituencies tends to swamp minor parties, the question arises as to why it does not crush the second

major party also—in other words, why it does not tend to produce a one-party rather than a two-party system. Schattschneider has argued—and I think fairly convincingly—that there are two main reasons for this. First, that the second major party is not easily wiped out because it is likely to have sufficient sectional strength to protect itself against annihilation even in a crushing defeat—in some areas it will always be the first party, and it is thus certain to win substantial representation even in times of national defeat. Thus each Australian party always retains certain “blue-ribbon” seats in the House of Representatives. (We may compare this with the old system of Senate elections where, before the introduction of Proportional Representation, State-wide multiple electorates could give one party an almost complete monopoly of representation.)

Second, the power of the second party to recover from defeat depends in part on the fact that it has a monopoly of the Opposition. Discontented elements, dissatisfied with their treatment by the party in power, attach themselves to the second major party, as it alone has a chance to get into power. Moreover, a strong Opposition is necessary to the survival of the party in power, for it is held together by the fact that disunity means defeat, by the fact that the Opposition is strong enough to take advantage of any failure of the party to maintain unity. If a party becomes too successful, reducing the Opposition to unimportance, it will usually suffer disunity and splits. Because great majorities tend to disintegrate, there will be a tendency for the party system to right itself, and re-establish an equilibrium whenever the party in power becomes too strong.

Thus it is noticeable that the two parties tend to divide the electorate equally between them. We have already seen that it is only by exaggerating the difference between the parties by representing the winner in greater proportion than the loser that the system finds majorities. The percentage votes of the two parties in the Commonwealth have not shown any violent variations. Since 1910, Labor's average has been 47.0 per cent., non-Labor's 48.9 per cent. The lowest the Labor vote has dropped was to 38.2 per cent., the lowest for non-Labor 35.8 per cent. The greatest majority won was by non-Labor in 1917, 54.2 per cent. There has been much talk about landslides in Commonwealth elections, but it would be a mistake to assume that these represent very great changes in the overall votes of parties—*e.g.*, the election of 1929 is generally described as an overwhelming defeat for the Bruce-Page Government, yet non-Labor polled 44.6 per cent. of the total votes against Labor's 48.8 per cent. The greatest swings have occurred in 1917, 1931, and 1943—at times when there had been splits in the major party organisations—but almost immediately the pendulum commenced to swing back.

The character of the parties is doubtless related to the fact that they operate in such a two-party system. Because each needs to win the

support of a great variety of interests, and to attract some support from all groups, they will tend to make national appeals, and concentrate on the swinging voter. Therefore they will tend to adopt moderate and broadly similar policies. (Again the exception will be a sectional third party, which alone will be able to afford to adhere to narrower policies reflecting particular regional and sectional interests.)

In this account of the single-member electorate system no attention has yet been paid to the actual voting methods within the electorates. I want now to consider whether preferential voting has modified the working of the system, and the trend to a two-party set-up—and this, of course, brings back the problem of the Country Party.

Naturally the failure of the single-member system to give an adequate representation of overall voting has evoked criticism. The very procedure by which it “finds majorities” and discriminates against minority parties has caused it to be bitterly attacked. The many schemes for electoral reform proposed since the latter part of the last century fall into two main categories:

First, various systems of *proportional representation*, which aim to ensure a correct representation of voting by providing that minority as well as majority opinion is represented, but it is clear that this can be done only through multiple constituencies. A form of Proportional Representation has operated in Tasmanian State elections since 1907. Multiple constituencies do not here present the difficulties that they would in larger States. There has been no tendency for a multiplicity of small parties to emerge. In fact, it is noticeable that the Country Party has been unable to exist there. Majorities for Tasmanian Governments have, however, been small as a rule, and Governments have frequently been dependent upon the support of Independents. In recent years, considerable attention has been given to the possible methods of avoiding deadlocks. New South Wales’ experiment with Proportional Representation from 1919 to 1926 tended to strengthen the Country Party, and to place the balance of power in Parliament either with that group or the Independents. The system aroused great hostility on account of the difficulties created by enormous electorates and the “political cannibalism”¹² it encouraged among members of the same and allied parties. The introduction of Proportional Representation in the Senate in 1949 ended the uneven representation of parties which had characterised the old system of Senate elections, but it introduced the danger of deadlocks, or of the balance being held by a minor party.

Second, there have been schemes for electoral reform which have endeavoured to retain the single-member electorates, but to ensure that within each electorate, the member is returned by an absolute majority of the votes. The simple majority or “first past the post” method

of counting votes places great pressure on the parties to nominate only one candidate for each constituency. It operates against a contest between more than two candidates, reinforcing the trend to a two-party system, and placing great emphasis on the machinery for party nomination. It is clear that the various Australian schemes to ensure a majority poll in each electorate were instituted in an endeavour to allow more than two candidates to compete. They were usually direct attempts to offset the development of rigid pre-selection machinery.

The Labor Party quite early developed pre-selection methods which prevented the nomination of more than one Labor candidate per electorate. The other parties were usually unable to discipline their followers so effectively, and therefore endeavoured to alter the electoral machinery to eliminate the dangers of splitting the vote. Queensland introduced a limited form of contingent voting¹³ in 1892; New South Wales experimented with a second ballot, or run-off election, between 1910 and 1918, and with a contingent vote in 1926. From 1911 on, most of the States gradually adopted preferential voting as we know it today. Usually the introduction of preferential voting followed some degree of split in the non-Labor parties. In the Commonwealth, its introduction in 1919 was directly linked with the rise of the Country Party. The new organisation agreed to withdraw its candidate from a by-election, thus avoiding a three-cornered contest between Nationalist, Labor and Country Party—in return for a promise from the Nationalist Government to legislate for preferential voting. Preferential voting has operated in elections for the House of Representatives ever since; and I want now to make some tentative suggestions as to the effects of this system of voting in the period from 1919-51.

First, while the preferential system does not do away with the mechanism of the single-electorate system, which operates against minor parties, it does lessen the psychological factor operating against them—i.e., a voter may cast his vote for a candidate who has little chance of winning without feeling that his vote has been wasted, since his preferences may be counted, and may still have some influence on the final result. Between the fusion of non-Labor parties, about 1910, and the introduction of preferential voting, in 1919, independent candidates were extremely rare, and practically every contest was a straight-out fight between one Liberal and one Labor candidate. Since then the number of candidates putting up for election has vastly increased.¹⁴ The system may have encouraged minor parties which use the elections as a means of agitation and propaganda—e.g., the Communist Party—though it has not improved their prospects of securing representation. The increased number of candidates cannot of course be attributed solely to preferential voting. The Country Party, the Communist Party, the Social Credit Movement, dissident groups within the Labor parties in the 'thirties, and within the non-Labor ranks in the 'forties, have clearly not been the products of the electoral

system, but they have probably all polled somewhat better under preferential voting than they might have under "first past the post".

Secondly, the system permits the same party, or allied parties, to put up more than one candidate in an electorate, knowing that the exchange of preferences will to some extent avoid "splitting the vote". But because it cannot do this entirely, since there is never a transfer of 100 per cent. of preferences from one candidate to another, it is still important to achieve electoral pacts to prevent multiple contests, or at least to ensure a rigid exchange of preferences.

It is important, however, to realise that, despite the increased number of candidates since 1919, most electorates have still been won on an absolute majority of first preference votes. Independents and members of splinter groups have tended to contest "blue-ribbon" electorates, and it is only rarely that their preferences have been distributed. Preferences have been counted in only just over one-fifth (22.7 per cent.) of all contests in general elections. Even more striking is the fact that the distribution of preferences has caused the defeat of the candidate polling the most first preference votes in only 6.9 per cent. of all contests, and in less than one-third (32.5 per cent.) of those contests in which preferences have been counted.

The non-Labor parties have made far more successful use of the preferential system than has Labor. In almost every election, the changes which have been produced by the distribution of preferences have lost more seats for Labor than for non-Labor.

Of the total 73 seats which have been won on the distribution of preferences, non-Labor has won 58 and Labor fifteen. Moreover, Labor has won five of these fifteen seats from rival Labor candidates, while a considerably smaller proportion—eight out of the 58—of the seats won by non-Labor have been won from other non-Labor candidates. The number of seats won by the Country Party on preferences (22) represents over ten per cent. of the total seats it has won in Federal elections. This suggests that the Country Party has gained more from preferential voting than any other party. Four seats have been won on preferences by Liberal Independents—two of these having been assisted by A.L.P. preferences to defeat the official Liberal candidate. Similarly, Liberal preferences have twice assisted Independent Labor candidates (J. T. Lang and Mrs. Blackburn) to defeat the official A.L.P. candidates. (Preferences of A.L.P. candidates have twice enabled one Country Party candidate to defeat another, and have once enabled a Liberal to defeat a rival Liberal, but have three times helped official Labor to defeat minority Labor candidates.)

We can also analyse the percentage of seats won by each party and the percentages they would have won if only first preference votes had been counted. By comparing these figures with the percentage of the total votes cast for each party it becomes clear that the under-representation of Labor previously mentioned would have been

considerably lessened if only first preference votes had been counted. The over-representation of the Country Party would have also been considerably reduced though in almost every case the percentage of the total votes cast for that party would still have been less than the percentage of seats won.

It may be argued that the method used in *e.g.*, Table 1, of comparing overall votes cast for a party with the number of seats it wins, is unsatisfactory since only first preference votes are included whereas second and later preferences may help to determine the number of seats won. There is no simple way of overcoming this difficulty.¹⁵ Since, as we have seen, the Country Party wins a greater proportion of its seats on preference votes than do the other parties, first preference votes cast for its allies (usually the other non-Labor candidates) will count towards its final majority in some seats. In other words the percentage of votes which are finally recorded for the Country Party will normally be somewhat higher than that shown in the Tables which thus provide a further illustration of the fact that the Country Party uses the preferential system of voting more successfully than do the other parties.

This analysis of cases in which distribution of preferences changed the result which would have been achieved by the "first past the post" system is, however, only part of the story of the working of preferential voting. It is also necessary to consider the cases when preferences were counted but the results left unaltered—to see how rigidly different parties have exchanged preferences, and how often seats have been lost by a failure to exchange preferences. There are obvious difficulties here—first, because it is very difficult to decide just what a "leakage" of preference means: second, where there are many candidates as *e.g.*, happened in 1940, and preferences of four or five candidates were often distributed, it is impossible to say with any certainty after the second count just whose preferences are going where. With these limitations, it is possible, however, to observe the following general tendencies:

First, among the non-Labor parties:

Where seats have been contested by Labor, Liberal and Country Party candidates, the highest exchange of preferences between non-Labor candidates has been about 98 per cent. But this is by no means typical. In only about one-third of the cases where preferences have been distributed has the leakage to Labor been less than ten per cent., and on average it has been 16.8 per cent. The most interesting fact is that Liberal voters have tended to give their preferences far more faithfully to Country Party candidates than have the Country Party to Liberals. When Liberal preferences have been distributed, the leakage to Labor has averaged 10.5 per cent., but when Country Party preferences have been distributed, it has averaged 22.0 per cent. There are two qualifications to be made here. First, there is some difference

between the States. Country Party leakages to Labor have tended to be noticeably higher in Victoria, particularly in the early years. But even if Victorian figures are omitted, the average leakage is still considerably greater than that of Liberal preferences. The second qualification is that, where there have been four or more candidates, there has been a tendency to a considerable leakage from Liberal to independent candidates.

On the whole, exchange of preferences between Liberal and Country Party candidates has worked fairly well since, in thirteen elections, there have been only about half-a-dozen seats won by Labor because of the failure of the non-Labor candidates to exchange sufficient preferences. (It must be recognised, however, that election pacts may have often prevented three-cornered contests where this was likely to happen.)

In cases of multiple endorsement, Country Party preferences have shown an average leakage of twelve per cent. to Labor, compared with 12.7 per cent. in cases of multiple Liberal endorsements. The latter figure is probably particularly high because most of the cases occurred in 1940, when there was an unusually large number of candidates. Small non-Labor parties and Independents have tended to transfer preferences less rigidly than endorsed candidates—the average leakage to Labor being nearly 25 per cent.

Where non-Labor preferences have decided between several Labor candidates, they have tended to favour the more conservative, or Right-wing; *e.g.*, in 1931 both Country Party and U.A.P. preferences went fairly rigidly to Federal Labor against State Labor, though, as we have seen, Liberal preferences enabled Lang to win Reid from the A.L.P. candidate in 1946.

Second, Labor preferences:

Labor candidates have rarely exchanged preferences as effectively as non-Labor candidates. The A.L.P. has endorsed multiple candidates only in a few isolated cases in Tasmania and South Australia. In only two cases have preferences been distributed, and in each there has been considerable leakage to non-Labor (over fifteen per cent.) and one seat in South Australia went to the U.A.P. because of the failure of the three A.L.P. candidates to exchange preferences rigidly.

In the election of 1931, five seats in New South Wales and one in Queensland were lost by Labor because of the failure of State and Federal Labor candidates to exchange preferences rigidly. The most interesting feature here is that State Labor candidates gave their preferences to Federal candidates far more rigidly than did Federal Labor to State Labor. The average leakage to non-Labor from State Labor preferences was 11.75 per cent. (and within New South Wales it was only 7.4 per cent.), while that from Federal Labor candidates averaged 31.5 per cent. The most glaring instance of the failure of rival Labor groups to exchange preferences was in East Sydney, where

55.8 per cent. of the Federal Labor preferences enabled the U.A.P. candidate to defeat E. J. Ward, the State Labor candidate.

In subsequent splits within the Labor Party in New South Wales, however, preferences were exchanged more rigidly. In 1940, the average leakage to non-Labor of the non-Communist Labor preferences was 12.04 per cent., that of the New South Wales State group, 15.6 per cent.

Neither the Communists nor the Social Credit candidates have given their preferences to the Labor Party as solidly as one might expect. On average, 77 per cent. of Communist preferences and 61 per cent. of Social Credit preferences have gone to Labor candidates.¹⁶ In the case of Social Credit, it was noticeable that there was a larger leakage to Country Party than to Liberal candidates.

Third, Independent preferences:

Where the preferences of Independents have been distributed, it is only in a minority of cases that they have split more or less evenly among Labor and non-Labor candidates—they usually clearly support one or the other, and in well over half the cases counted, they favour non-Labor. It must be stressed, however, that Independent votes are usually small, and that they rarely decide elections.

From all this I think we can draw a few conclusions as to the working of preferential voting. Although it has modified the trend of the single-electorate system to produce a rigid two-party system, it has not encouraged the multiplicity of parties, nor the emergence of a third centre party. It has, however, cushioned the effects of splits within the two main parties. Even in the 'thirties and 'forties, we have tended to have two groups of parties rather than several independent ones. Insofar as candidates of one party have been able to decide between rival candidates of another, the system has tended to favour moderate candidates.

Preferential voting has not abolished pre-selection but it has often enabled allied parties to engage in three-cornered contests and the Country Party to engage in multiple endorsement without losing seats. In the non-Labor parties there have always been conflicting opinions as to the advantages of running more than one candidate against Labor. In "swinging" seats the danger of "splitting the vote" must be weighed against the fact that each candidate will attract a number of personal or local votes regardless of his party. If non-Labor parties can exercise a tight exchange of preferences it may be to their advantage to have more than one candidate to "maximise" the vote against Labor. This is particularly true in large country electorates where local loyalties and the idea of a local member are still strong. By nominating candidates from different areas, a party may be able to benefit from the localised support each receives.¹⁷ On the other hand in a "blue-ribbon" seat multiple endorsement may merely mean that a party which refuses to pre-select one candidate leaves it to the sup-

porters of an opposing party to do this for them. There have, for example, been a number of cases where the Country Party has endorsed two or three strong candidates in a safe seat and the preferences of a Labor or an independent candidate have decided which one of them secured the seat.

Preferential voting has undoubtedly benefited non-Labor more than Labor. It helps to explain the continued existence of the Country Party, and the peculiar two-and-a-half party system operating in Federal politics—though it only partially explains the over-representation which the Country Party has always enjoyed.

Preferential voting must also have had important effects on party organisation. In campaigning methods, it, of course, enhances the importance of "How to Vote" cards. It may also offer some clue to the peculiar organisation of the Country Party. To a greater extent than other parties, this group has been able to risk cannibalism among multiple candidates. This fact is probably linked with the extreme looseness of the party organisation, and the scope thereby offered for regional and local divergences at the branch level.

TABLE 1

Elections for House of Representatives 1910-1951

Comparison of Votes Cast and Seats Won by Main Political Groupings

Election	Non-Labor		Labor		Independent	
	% Votes	% Seats	% Votes	% Seats	% Votes	% Seats
1910	45.1	41.3	49.6	56.0	5.3	2.7
1913	48.9	50.7	48.5	49.3	2.6	—
1914	47.2	44.0	50.9	54.7	2.0	1.3
1917	54.2	70.7	44.5	29.3	1.3	—
1919	53.8 (8.4)	62.7 (14.7)	41.5	34.7	4.7	2.7
1922	50.9 (12.9)	60.0 (18.7)	43.8	38.7	3.4	1.3
1925	53.7 (11.6)	69.3 (20.0)	44.7	29.3	1.7	1.3
1928	51.9 (12.0)	57.3 (18.6)	44.8	41.3	3.3	1.3
1929	44.6 (11.3)	33.2 (14.6)	48.8	61.3	6.1	5.3
1931	53.2 (10.6)	74.6 (21.3)	38.2	24.0	7.8	1.3
1934	49.8 (13.5)	63.5 (20.3)	48.2	36.5	2.0	—
1937	49.7 (16.2)	60.8 (23.0)	45.9	39.2	4.4	—
1940	44.9 (13.8)	51.3 (18.9)	48.0	48.6	7.0	—
1943	35.8 (8.4)	32.4 (13.5)	53.0	66.2	11.1	1.3
1946	47.4 (16.4)	39.2 (16.2)	51.8	59.5	0.6	1.3
1949	50.3 (10.9)	61.1 (14.0)	47.6	38.8	2.1	—
1951	50.3 (9.7)	57.1 (14.0)	48.6	43.8	1.0	—

Note.—1. First preferences only are given from 1919. 2. No allowance has been made for uncontested seats. 3. Non-Labor includes all clearly anti-Labor candidates, *e.g.*, Fusionists, Liberals, Nationalists, U.A.P., Country Party, unendorsed Liberals, etc. Figures for the Country Party alone are in brackets. Labor includes A.L.P., State Labor, Non-Communist Labor, N.S.W. Labor, Lang Labor, Independent Labor, Communist and Social Credit candidates. 4. The table is based on election figures, unofficially classified by party by the Commonwealth Electoral Office, in the National Library, Canberra.

TABLE 2

Preferential Voting in General Elections for House of Representatives 1919-1951

	Number of Electorates	Number of Candidates	Number of Multiple Contests	Number of contests in which preferences counted	Number of contests in which counting of preferences changed first result
1919	75	187	27	15	5
1922	75	199	42	28	11
1925	75	165	12	3	2
1928	75	151	13	6	2
1929	75	159	13	6	2
1931	75	229	53	32	4
1934	74	258	63	26	7
1937	74	190	36	14	5
1940	74	270	54	28	7
1943	74	239	66	32	10
1946	74	229	46	13	5
1949	121	345	67	22	9
1951	121	285	42	6	2
Total	1062	2906	534	231	73

Summary, 1919-51:

Multiple contests = 50.03 per cent. of all elections*.

Preferences counted in 22.69 per cent. of all elections and 43.25 per cent. of multiple contests.

Preferences changed results in 6.872 per cent. of all elections and 13.67 per cent. of multiple contests and in 32.47 per cent. of cases where preferences counted.

*Includes uncontested seats.

In his study of the effects of electoral systems on political life, Maurice Duverger¹⁸ concentrates on the most common electoral methods and does not consider the type of preferential voting we have in Australia. He does, however, deal with the use of the second or "run-off" ballot in single-member electorates. This is in some ways very similar to preferential voting (though there are important differences which I have no space to explain here). Duverger argues that with the second ballot one would expect splits (or "proliferation") of the major parties unless such parties were already extremely well and tightly organised. I think this argument is applicable to Australia. The party organisation would seem to be a determining factor in the working of preferential voting. The rigid organisation of the A.L.P. has tended to prevent the multiplicity of candidates one would expect under preferential voting. The nature of the party has meant there can be little divergence within it. When splits do occur, the party tends to be completely rent in two—great hostility results and preferences are often not tightly exchanged. The less rigid discipline of the non-Labor parties enables them to make better use of preferential voting—the

extreme case being that of the Country Party which, in those States where it engages in multiple endorsement, has rarely suffered important splits. Rather the looseness of its organisation has enabled it to give scope to rivalry and divergence within the party.

TABLE 3

Preferential Voting in General Elections for House of Representatives, 1919-1951

(i) Analysis of Contests in which Counting of Preferences Changed the First Result			
Of 73 seats where preferences changed result:			
Non-Labor won 58	49 from Labor candidates 9 from other non-Labor candidates.		
Labor won 15	10 from non-Labor candidates 5 from other Labor candidates.		
(ii) Further Breakdown into Party Groupings			
<i>Non-Labor</i> (58)		<i>Labor</i> (15)	
Liberals won 31:	29 from A.L.P.	A.L.P. won 12:	6 from LIB.
	1 " LIB.		3 " C.P.
	1 " S.C.		1 " L.S.
			1 " L.N.C.
			1 " L.L.
Liberal } Splinter } Groups }	won 5: 3 " LIB. 1 " U.A.P. 1 " A.L.P.	Labor } Splinter } Groups }	won 3: 1 " LIB. 2 " A.L.P.
C.P. won 22:	17 " A.L.P.		
	1 " L.S.		
	1 " NAT.		
	2 " C.P.		
	1 " IND.		

NOTE—(a) In this Table Labor and Non-Labor are used as in Table 1. Liberal is used to cover the major non-Labor parties.

(b) Abbreviations: S.C., Social Credit; L.S., State Labor (1931-4); L.N.C., Australian Labor Party (Non-Communist); L.L., Lang Labor.

13 | THE RELATION OF VOTES TO SEATS IN ELECTIONS FOR THE AUSTRALIAN HOUSE OF REPRESENTATIVES, 1949-1954

Joan Rydon

After each recent Federal election there has been something of an outcry that the Australian Labour Party is under-represented and that, on occasions, it has polled a majority of the votes without obtaining a majority of seats in the House of Representatives and the consequent opportunity to form the government.

This article is an attempt to examine the figures of the three elections of 1949, 1951, and 1954 considering the charges of Labour "under-representation" and the general relation between votes cast for and seats won by political parties in the light of recent studies of election statistics in other single-member constituency systems.¹

Any comparison of the working of the Australian electoral system with that of Britain or New Zealand is, however, rendered difficult by three particular features of the Australian system: compulsory voting, preferential voting² and the existence of the Country Party (or the absence of a clear two-party system).³ Compulsory voting does, nevertheless, facilitate the study of election statistics by making variations in the size of the poll fairly insignificant and consequently practically eliminating the influence of "abstainers". But, in conjunction with preferential voting, it does alter the significance of the voting process. No longer is it a question of an elector voting for the candidate (or party) that he supports, or, in the absence of such candidate or party, not voting. Instead it compels every elector to indicate his order of preference for the available candidates or parties, even though he may support none of them. An active supporter of the Liberal Party must vote even if the only candidates in his electorate are A.L.P. and Communist Party candidates. In such a case the voting figures may give little indication as to the number of electors voting for or against

the government in power. Compulsion may thus inflate the votes polled by Communists, members of other minor parties, or Independents, in seats which are not contested by one of the major parties.

It is not my intention here to discuss whether the Australian party system can be properly regarded as a two-party, three-party or “two-and-a-half party” system, but there are two points to be stressed. Firstly, in the three elections to be considered, the Liberal and Country Parties did campaign in coalition. Secondly, there were not many cases where Liberal and Country Party candidates contested the same seat, and, where this did occur, preferences usually had to be counted, so that the final decision was between one Labour and one non-Labour candidate. This is linked with the more general point that preferential voting usually operates so that every election in a “close” seat either is, or is reduced to, a two-way contest.

The three elections here studied were chosen because of the obvious advantages that they were all held under the same electoral boundaries (redistribution of constituencies occurred in 1948 and 1955) and within an unusually short period of time. The fact, though, that the same party won all three elections and that changes in voting were small, tend to be disadvantages for a study of this kind.⁴

If we take the raw figures—that is, the first preference votes⁵ cast in all contested constituencies—the percentage of the total polled by each party in each election is as follows:

	A.L.P.	Liberal	Country	Com-munist	Inde-pendents ^a
1949	45.98	39.40	10.86	0.89	2.87
1951	47.61	40.67	9.68	0.97	1.07
1954	50.03	38.56	8.52	1.24	1.65

In 1949 every seat was contested by the A.L.P. and the Liberal and/or Country Party. In 1951 and 1954 this was not so, and it is necessary to make allowances for uncontested seats and seats not contested by either the A.L.P. or the Liberal-Country Party. These allowances have been made on the basis of previous voting for both the Senate and the House of Representatives in the seats concerned and changes in voting in electorates in the same state where voting was previously similar.⁷ The percentages for 1951 and 1954, after the adjustments have been made are:

	A.L.P.	Liberal	Country	Com-munist	Inde-pendent
1951	47.99	40.72	9.89	0.98	0.82
1954	49.55	39.10	9.67	1.13	0.55

These figures are still, however, only first preference votes. Since, in each of the three elections, preferences were counted to determine a number of seats, more useful figures can be obtained by using the "final" figures rather than the first preference votes for these seats. The percentage of final adjusted votes polled by, and the percentage of seats won by, each party is then as shown in Table 1.

TABLE 1

	1949		1952		1954	
	Votes ^a	Seats	Votes	Seats	Votes	Seats
A.L.P.	46.63	38.85	48.21	42.97	49.67	47.09
Liberal	40.41	45.45	40.79	42.97	39.50	38.85
Country	9.84	15.70	9.66	14.06	9.34	14.06
Liberal plus Country	50.25	61.15	50.45	57.03	48.84	52.91
Communist	0.75	—	0.94	—	1.09	—
Independent	2.37	—	0.40	—	0.40	—

No Communist or Independent candidates won seats in any of the elections, and we can consider what would have happened if their votes had been distributed among the major parties according to second or lower preferences. Actual distribution of preferences between parties varies greatly, but it has been assumed here that roughly 90% of Communist votes, two-thirds of Lang Labour and Independent Labour votes and one-third of other Independent votes would go to the A.L.P. and the remainder to the Liberal-Country Party coalition.⁹ On this basis the figures become as in Table 2.

TABLE 2

	1949		1951		1954	
	Votes	Seats	Votes	Seats	Votes	Seats
Labour	48.60	38.85	49.21	42.97	50.78	47.09
Non-Labour	51.40	61.15	50.79	57.03	49.22	52.91

From either Table 1 or Table 2 it is clear that in 1954 the A.L.P. (or Labour) polled more votes than the Liberal-Country Party coalition (or non-Labour)¹⁰ which, nevertheless, retained a majority in the House of Representatives. In 1954 then, the "under-representation" of the A.L.P. is clear. What of the two earlier elections? In both cases the Liberal and Country Parties each won a greater percentage of seats than of votes whereas the Labour percentage of votes exceeded the percentage of seats won. Yet this is, apparently, a normal feature of a single-member electorate system—that it exaggerates

majorities. The A.L.P. was “under-represented” in 1949 and 1951, because it won fewer votes than the Liberal and Country parties combined. But this “under-representation” may have been exaggerated by a bias in the electoral system, since such a bias clearly existed in 1954.

It is noticeable from Table 1 that the expected relationship between the percentage of seats won and percentage of votes polled was always reversed in the case of the Country Party. If the three parties are considered as separate entities, the principle of exaggeration of majorities cannot explain this “over-representation” of the Country Party which, as the smallest of the three main parties, should have fared worse than the other two. It has, however, been shown elsewhere¹¹ that this “over-representation” of the Country Party is a constant feature of Commonwealth elections. The Country Party, unlike the two nation-wide parties, does not normally contest seats which it has little chance of winning,—thus its total votes do not usually include any wasted in hopeless seats.

In considering the more general question of whether there was a bias in the electoral system operating against the A.L.P. in 1949 and 1951, and, if so, what was its nature, we may look at some of the attempts to find a relationship between seats and votes in other single-member constituency systems.

It has been suggested that in such a system with two major political parties, when the votes cast for the winning party to those cast for the losing party are in the relation $A : B$ then the proportion of seats won by the winning party to those won by the losing party will be in the ratio $A^3 : B^3$. It has been claimed that a number of elections in Britain and New Zealand roughly conform to this formula.¹² Table 3 shows the application of this formula to the Australian elections here discussed. Column (i) shows the number of seats (of the total of 121) each party would have won if the cube rule was applied to the adjusted A.L.P. and Liberal + Country Party votes (i.e. the figures in Table 1); column (ii) shows the same when the final Labour and non-Labour votes (i.e. the figures in Table 2) are used.

TABLE 3

		Theoretical results		Actual results	Difference
		(i)	(ii)		
1949	Labour	54	55	47	7-8
	Non-Labour	67	66	74	
1951	Labour	56	58	52	4-6
	Non-Labour	65	63	69	
1954	Labour	62	63	57	5-6
	Non-Labour	59	58	64	

Dean McHenry has suggested that the application of the cube rule to the elections we are discussing showed that the electoral system gave the Liberal-Country Party coalition an advantage over the A.L.P. of from 5 to 6 seats.¹³ He considered only first preference votes in contested seats; the figures used here suggest that the A.L.P. was at a somewhat greater disadvantage in 1949. If the A.L.P. was "under-represented" by the number of seats shown in the difference column in Table 3, we can calculate the approximate percentage of the votes it would have needed in each election to secure a majority (61) of seats.¹⁴ For all three elections this necessary percentage would be over 51 and in 1949 it may even have been over 52.

It is interesting to compare the application of the cube rule with results obtained from an adaptation of the method employed by D. E. Butler. In the statistical appendices to the Nuffield studies Butler assumes that, when there is a change in overall voting, one may impute the same change to each electorate—that is, that divergences tend to cancel out so that the effect would be the same as if an equal change occurred in each electorate. Thus, if the Labour vote increases from 48% to 49% of the over-all figures, then the Labour vote should be considered as raised by 1% in each electorate.¹⁵ Labour should win seats equal in number to those it previously held plus those in which it previously polled between 49% and 50%. Thus, from any election result, it should be possible to calculate how many seats would change hands for any given percentage change in the overall voting.

An adaptation¹⁶ of this method has been used to calculate the number of seats which the A.L.P. might be expected to win, if it polled various percentages of the overall vote, on the basis of the results of each of the three elections. These are given in Table 4.

TABLE 4¹⁷

Percentage of total votes polled by Labour	Number of seats expected to be won by Labour		
	1949	1951	1954
48.60	47	48	50
49	48	51	51
49.21	50	52	51
49.5	52	53	51
50	53	53	53
50.5	55	53	55
50.78	58	55	57
51	58	55	57
51.5	60	56	61
52	60	57	61
52.5	63	60	63
53	65	64	64
53.5	65	67	66
54	67	71	67

As a means of prediction, the Butler method seems more accurate than the cube rule. *If we assume that the overall voting had been accurately predicted in each case*, then, on the basis of the 1949 figures, we could have calculated the A.L.P. result in 1951 with an error of 2 seats and that in 1954 with an error of 1 seat. Using the 1951 figures, we could have calculated the 1954 result with an error of 2 seats. The same method used to “predict” *backwards* from 1954 would give the 1951 result within 1 seat and 1949 within 3 seats. 1949 “predicted” from 1951 would be within 1 seat of the actual result.

Butler’s method is similar to that used by newspaper commentators, pollsters, party officials etc., and it is probably as accurate as we could expect any such method to be. The problem in its application is, of course, the accurate prediction of the change in the over-all voting¹⁸—a subject which is not being discussed here.

Since the method used in Table 4 works fairly well for prediction, it may be expected to throw some light on the question of Labour “under-representation”. All three columns of the table show that, when Labour polled 50% of the over-all vote, it would have won only 53 out of the 121 seats: it would have been “under-represented” to the extent of some 7 to 8 seats. At other points, though, there is considerable divergence between the columns. In 1954, something between 51% and 51.5% would have been required to secure an A.L.P. majority, whereas in 1949 between 52% and 52.5% and in 1951 between 52.5% and 53% would have been needed. Everything suggests that, in 1949 and 1951, there was a bias against the A.L.P. perhaps even greater than that shown so clearly in 1954.

Such bias in the electoral system may be related to one or both of the following factors:¹⁹

- (a) Uneven size of electorates (in the sense of the number of voters in each);
- (b) Concentration of majorities (where one party wins a large number of “blue-ribbon” seats with large majorities, thus “wasting” votes which, if they were situated in other electorates, could be helping to win more seats).

The effect of variations in the size of electorates can be indicated in the following way. If, in each electorate, there were the same number of formal votes cast²⁰ and the votes for each party were expressed as a percentage of the electoral total, then the simple (unweighted) average of these percentages for any one party would equal the overall percentage vote polled by that party. Since electorates are not, as a rule, equal, any difference between the over-all percentage and the simple average of percentages reflects the effect of variations in electorate size. If the simple average of percentages exceeds the overall percentage, then the *effective* vote

for the party—in the sense of seat-winning votes—is greater than the overall percentage indicates: the party is benefiting from the unevenness of the electorates. The differences for each election can be seen in Table 5.

TABLE 5

Subtraction of overall from simple average Labour vote

Year	(i) Simple average %	(ii) Over-all %	(iii) Difference %
1949	48.61	48.60	+0.01
1951	49.18	49.21	−0.03
1954	51.06	50.78	+0.28

In all three elections the difference was slight, though the general tendency was, from almost complete insignificance immediately after the 1948 redistribution, slightly in favour of Labour. It is probable that this derives from the observed movement of population from the strong inner city Labour electorates to the new outer suburbs, particularly in Sydney and Melbourne. The change in favour of the A.L.P. is reflected in the average size (in thousands of total formal votes cast) of seats which *did not* change hands throughout the three elections, e.g.:

Always won by:	1949	1951	1954
A.L.P.	38.5	38.6	38.6
Lib.-C.P.	37.6	38.5	40.7

While variations in the size of electorates do little to explain the “under-representation” of the A.L.P. over this period, they do throw some small light on the “over-representation” of the Country Party. Using the figures of Table 1 (the “final” figures, but before the *uncounted* preferences have been distributed), we get, in Table 6, the differences (simple average percentage less overall percentage) for each party, and for the independent group.

TABLE 6

Simple average percentage less overall percentage votes

Party	1949	1951	1954
A.L.P.	+0.15	−0.02	+0.20
Liberal Party	−0.36	−0.47	−0.80
Country Party	+0.50	+0.49	+0.61
Communist Party	−0.03	+0.06	+0.02
Independents	−0.26	−0.06	−0.03

In all three elections, the Country Party obtained an advantage of about 0.5% on a total poll of the order of 10% of the overall votes cast, due entirely to the variations in electorate sizes: mainly because Country Party electorates tend, on the average, to be considerably smaller than those won by other parties.²¹ It must be emphasized, however, that electorate size explains only a small part of the "over-representation" of the Country Party shown in Table 1.

Since the explanation of the bias against the Labour party does not, to any significant extent, lie in the sizes of the electorates, it is probably explained by what we have called "concentration of majorities". Table 7 shows the distribution of seats won by each party classified according to the winning percentage of the vote.²² The figures in brackets in the L.C.P. columns show the number of Country Party seats included among the unbracketed figures.

TABLE 7

Winning percentage of the vote	Number of seats					
	1949		1951		1954	
	A.L.P.	L.C.P.	A.L.P.	L.C.P.	A.L.P.	L.C.P.
85+	—	—	1	—	1	—
80 — 84.99	2	—	1	—	—	—
75 — 79.99	2	4 (1)	2	4 (1)	5	2 (1)
70 — 74.99	4	1 (1)	5	2 (2)	8	3 (1)
65 — 69.99	8	8 (3)	7	5 (2)	5	6 (1)
60 — 64.99	8	18 (5)	13	18 (4)	11	12 (5)
55 — 59.99	9	25 (6)	6	23 (5)	11	24 (5)
50 — 54.99	14	18 (3)	17	17 (3)	16	17 (4)
Totals	47	74 (19)	52	69 (17)	57	64 (17)

It is obvious that the party which wins the election will normally win more seats with small majorities than will its opponents, since it is the possession of those "swinging" seats which decide the election. Nevertheless, the number of seats won with very large majorities by any party will give some indication of the extent to which the concentration of its voters means "wasted" votes. If, in the above table, we consider the seats won with over 65% of the votes, we find that the number of these held by the A.L.P. always exceeded those held by the L.C.P., in spite of the fact that, over all, the L.C.P. won more seats than did Labour. The same is true of seats won with over 70% of the votes, and only the A.L.P. won seats with over 80% of the votes.

A rough indication of the extent of "wasted" Labour votes can be given in the following way: there were 23 seats in which the Labour vote was over 60% in each election, and similarly there were 23 seats

in which the non-Labour vote was always over 60%. The total of the votes polled by the parties in these "safe" seats was (in thousands):

Year	A.L.P.	L.C.P.	A.L.P. surplus
1949	893.7	867.0	26.7
1951	906.7	867.3	39.4
1954	944.0	855.4	88.6

The A.L.P. surplus shows the extent of labour votes "wasted", in the sense that they were in excess of the number of non-Labour votes expended in holding the same number of seats.

The explanation of the bias against the A.L.P. thus seems to be that Labour voters are more concentrated in safe seats than are the supporters of the non-Labour parties. The "over-representation" of the Country Party appears due partly to the smaller size of the electorates it contests, partly to the size of the majorities with which it wins its seats, but mainly to the fact that it contests very few seats which it has no chance of winning.²³

It is interesting to look at the "under-representation" of the A.L.P. on a state basis. The following table lists the cases where the Labour vote exceeded 50% of the votes in a state, but non-Labour won a majority of the seats in that state.

		Labour vote	Labour seats	Total seats
N.S.W.	1949	50.04	23	47
Victoria	1951	50.61	15	33
Victoria	1954	50.80	15	33
South Australia	1949	50.52	4	10

By the method used in Table 4, the percentage of votes Labour required to win a bare majority of seats in each state in each election has been calculated. These are:

	N.S.W.	Vic-toria	Queens-land	South Aust.	West Aust.	Tas-mania
1949	51.09	52.60	50.51	53.51	49.52	51.62
1951	51.15	52.18	50.19	54.08	55.23	51.67
1954	51.16	52.44	50.23	49.81	50.52	50.34

There is considerable fluctuation in the figures for the smaller states, where the small number of seats means that erratic changes in voting in one or two seats can change the over-all pattern, but in the three

largest states the figures are fairly consistent. The bias against Labour appears consistently greatest in the most industrialised states—in Victoria, where all the seats which Labour wins with large majorities are in Melbourne, in New South Wales, where Labour “blue-ribbon” seats are in Sydney, the Newcastle area and Darling (western New South Wales including Broken Hill) and in South Australia, where three Adelaide seats are Labour strongholds.

The fact that a similar bias against Labour has been shown to operate in recent elections in both Britain and New Zealand suggests that it may be an almost inevitable feature resulting from the concentration of Labour voters in industrial areas²⁴ and that re-drawing of boundaries is unlikely to eliminate it completely.

I 4 | THE CHOICE OF VOTING METHODS IN FEDERAL POLITICS, 1902-1918¹

B. D. Graham

The myth of the “Flinders deal” dies hard.² In May 1918, when a by-election was held for the federal seat of Flinders in Victoria, Labor, Nationalist and Victorian Farmers’ Union candidates entered the contest. However the VFU man withdrew his nomination after the National Party, afraid of the consequences of a split vote, had promised to introduce a bill providing for preferential voting in elections to the House of Representatives. Six months later such a measure was passed through parliament and applied to the Corangamite by-election of December 1918, won by a Farmers’ Union candidate after the distribution of preference votes. Certainly these are the facts, but historians have given them a misleading significance. There are no solid grounds for the claim that the Hughes Government brought in preferential voting only because of the Flinders deal and without careful consideration of the possible consequences of the change. The government, in fact, appears to have had more important motives than that of repaying an obligation to a rural pressure group. The Flinders by-election is a key event in the history of the 1918 Electoral Act, but it belongs to a much wider background.

It is necessary to regard the Electoral Acts of 1902 and 1918 as carefully weighed pieces of legislation. They were passed, not as casual expedients, but as a means of providing what were considered to be appropriate conditions for the interaction of parties at the electoral level. The men who prepared them had some knowledge of the ways in which electoral methods may influence the working of a party system, and they made their choices to achieve certain positive results. On both occasions, it is true, their political and technical judgement proved to be faulty, and they were unable to predict accurately how the methods selected would work in practice. Their uncertainty is perhaps the most interesting thing about this subject.

I

Australia's first experiments with transferable-vote methods took place in the 'nineties. In 1892 Queensland adopted a form of optional preferential voting³ which became known as "the contingent vote". Four years later, the Tasmanian parliament provided that elections in the towns of Hobart and Launceston should be conducted under a method of proportional representation, named the Hare-Clark system in honour of Thomas Hare, who in 1859 proposed the first systematic scheme of proportional representation, and of Inglis Clark, Attorney-General in the Ministry responsible for the Tasmanian measure. It was discontinued in 1901, chiefly because of pressure from the Legislative Council.⁴

Discussion about the Queensland and Tasmanian acts centred mainly on their possible effects on the party system, for Australia at this time was alive with debates on a whole range of political questions. Again and again, the arguments about the federation movement, the function of constitutions, and the devolution of authority to the electors through voting reforms, would all come back to the underlying problem—what sort of polity was Australia to have in the twentieth century. Our concern is with the debates on electoral systems as agencies of social change, and in this field three bodies of opinion had taken shape by the turn of the century. On the one side were the champions of proportional representation, whom we shall call the proportionalists; matched against them were two powerful but allied groups, the conservatives and the "dualists".⁵

Prominent amongst the proportionalists were such liberal politicians as Alfred Deakin and Sir George Turner, who were concerned about the growing power of party organisations, and middle class intellectuals influenced by the ideas of John Stuart Mill. From their point of view, the political community would be stable only when all significant social groups were given an effective voice in parliament. They advanced proportional representation as an electoral system suited to the needs of a pluralist society. Only when the legislature had become a microcosm of the whole society, in all its variety of interests, could real political integration be achieved. On the other hand, majority voting methods and excessively powerful party organisations would frustrate the will of the people, and produce political disequilibrium. Miss C. H. Spence, one of Adelaide's leading proportionalists, put the case thus:

In order that government should be honest, intelligent, and economical, it needs helpful criticism rather than unqualified opposition, and this criticism may be expected from the less compact and more independent ranks in a legislative body which truly represents *all* the people.

Party discipline, which is almost inevitable in the present struggle for ascendancy or defeat, is the most undemocratic agency in the world. It is

rather by liberating all votes, and allowing them to group themselves according to conviction that a real government of the people, by the people can be secured.⁶

The conservatives did not agree that the free functioning of political pluralism would serve the nationalist interest; taking a pessimistic view, they argued that proportional representation would encourage groups and classes to pursue their narrow sectional concerns and to ignore their wider obligations within the community. For this reason, the conservatives chose to defend the simple-majority voting system as the best means of inducing electors to think in general terms and to identify themselves with broad political movements. They maintained that as soon as a voter realised that his vote would be wasted on a sectional candidate, he would vote for a man affiliated with a large party whose policies were conceived in the national interest. The interplay of two large parties, each concerned with the general good, was accepted by the conservatives as a natural and desirable state of affairs, and anything which might clog this interplay, such as proportional representation, earned their hostility.⁷

By the turn of the century, however, true Burkeian conservatives had become a rarity in Australia. Their arguments had been taken over and transmuted by right-wing thinkers and politicians who equated virtue with organisation and who saw the two-party system not as an expression of a natural order in society, but rather as a crude forcing ground for Progress. Unlike the conservatives, these men (whom we shall call the dualists) welcomed rapid social and economic change but claimed that the resultant breakdown of the old social structure had enabled certain groups to pursue their self-interest in an aggressive and irresponsible manner. Effective government could not be obtained, in their view, unless the number of parties was limited to two—His Majesty's Government and His Majesty's Opposition. A third party, they claimed, would use the balance of power strategy to extort concessions from whichever party happened to be in power. They suggested that proportional representation, by sanctioning the politics of sectional bargaining, would destroy the sense of community in a nation and would undermine the two-party system. In this claim, as in their defence of the simple-majority voting method, the dualists appeared to be agreeing with the conservatives, but in reality the two groups approached the subject from quite different directions. The conservatives assumed that the two-party system was a normal form of government, and that it would evolve naturally in a free society; the dualists believed, on the contrary, that sectional interests, given complete freedom of action, would create a Hobbesian state of nature, in which every group fended for itself—order, in their view, had to be imposed consciously, if needs be with the aid of coercion.

In *Proportional Representation Applied to Party Government*, published in 1900, the brothers T. R. and H. P. C. Ashworth presented the dualist case with considerable force. Avowed Social Darwinists, they studied politics from what they described as “the dynamic point of view”, as an unending struggle for existence between conflicting social groups.⁸ The metaphors of battle and armed combat recur throughout their writings. They argued that political discipline would be produced only by inspired leadership and organisation, through which people would be persuaded “to subordinate their class prejudices to the general welfare”.⁹ Having stressed the need for preserving the two-party system as the proper agent of Progress, the Ashworths condemned the Labor Parties as threats to stable government, mainly because of their allegedly unscrupulous use of the balance of power strategy.

These so-called Labour “parties” are neither more nor less than class factions . . . The worst effect is that they prevent the main parties from working out definite policies on public questions, and cause them also to degenerate into factions.¹⁰

Much more was involved in this controversy than the practical question of choosing a voting method. Whereas the proportionalists stood for the utilitarian faith in the virtue of an open society and a liberal polity, the dualists represented the view that politics was a matter of power, organisation and electoral manipulation. By the outbreak of the First World War, when the fusion of the non-Labor parties had been accomplished at the cost of liberalism and the solidarity of the Labor Party had been achieved at the expense of doctrinal controversy and ideological vitality, it seemed as though the ideas of the dualists had become the faith of the new Commonwealth.

At the turn of the century, however, the issue was still in doubt. The proportionalists were hoping that proportional representation would be used in the elections to the Commonwealth parliament, and, at the Australasian Federal Conventions of 1897 and 1898, several prominent delegates had suggested that the Hare-Clark system might be used to elect the federal Senate.¹¹ In the event, the elections to the first federal parliament, held on 29 and 30 March 1901, were conducted under the laws applying to state elections, but the possibility of adopting proportional representation for future elections was considered seriously by the first federal government, a Protectionist cabinet headed by Sir Edmund Barton. Sir Edmund himself, during the preliminary work on the Commonwealth Electoral Bill, went to the trouble of studying the proportional representation scheme which Belgium had adopted in 1899,¹² but his interest may well have been inspired by practical considerations. The block-voting method which had been employed in the first Senate poll by all states except Tasmania had harshly penalised the Protectionist teams, while in Victoria

there had been several instances of split-voting between Protectionist candidates under the simple-majority voting system used for the election of Representatives. In the end, the federal cabinet decided that the Electoral Bill, drafted finally late in 1901, should provide for proportional representation in the election of Senators and for optional preferential voting in the election of Representatives. Sir William Lyne, the Minister for Home Affairs, had wished to put forward only the latter scheme, in keeping with the advice of a conference of experts, but he had been over-ruled by his colleagues.¹³ E. J. Nanson, the Professor of Mathematics at Melbourne University, evidently had a great deal to do with the framing of those clauses of the bill which dealt with voting methods proper, and the proposal that the Droop quota be used in the proportional representation scheme was probably made at his suggestion.¹⁴

When the bill was made public in January 1902,¹⁵ the government seemed unlikely to obtain parliamentary approval for its proposed voting methods. Even its own Protectionist Party was divided; such prominent figures in the party as Thomas Playford and Sir John Downer were actually defending the use of simple-majority voting while the *Melbourne Age*, Victoria's powerful Protectionist newspaper, was attacking the proportional representation scheme.¹⁶ Most of the Free Traders declared their support for traditional voting methods, but the Federal Labor Party, which had formerly left its members free to vote according to their conscience on issues of preferential voting,¹⁷ provided unexpected backing for the government. The Labor caucus meeting of 5 February, for reasons which remain obscure, agreed to support the voting methods proposed in the bill.¹⁸ This left the government soundly placed in the House, which contained 32 Protectionists, 16 Labor members and 27 Free Traders, but it was still uncertain of being able to control the Senate, where 11 Protectionists and 8 Labor men were balanced by 17 Free Traders.

Unfortunately, as the House was busy, the government had to introduce the bill in the Senate, where it received a rough handling. The speakers in favour of proportional representation, such as Senators R. E. O'Connor (NSW), R. W. Best (Victoria), E. A. Harney and N. K. Ewing (both from Western Australia) argued without conviction. Harney spoke of the system placing in parliament "every phase of political opinion in its varying strength and character (sic) that is to be found in the country", thus producing "a political picture of the people".¹⁹ The bill's critics, especially Senators Symon and Playford, were much more effective in debate. Their conventional defence of simple-majority methods, however, contrasted with the arguments used by the dualists. Senator E. D. Millen (NSW) was particularly interested in the effect of first-past-the-post voting in forcing the electors into two blocs.

The more opportunities . . . are afforded to different sections of the community to run a candidate, the more splitting of votes will take place when each body of electors think they have an opportunity of readjusting or correcting any mistakes upon the second votes. But under the system in force to-day, if there are four or five candidates running for one constituency, every elector knows the risk he runs of losing a representative of the ideas to which he desires to give effect if he allows his vote and those of electors agreeing with him to be split up. The result is that party organization and the common sense of the electors come in, and there is no splitting of votes and no return of the representative of a minority.²⁰

On 19 March 1902, the Senate rejected the proportional representation clause by 18 votes to 9.²¹ The majority was composed of ten Free Traders and eight assorted Protectionist and Labor Senators; four of the latter group had been members of the election team sponsored by the *Age* during the 1901 campaign.

When the bill came before the House of Representatives later in the year, the clause providing for optional preferential voting in the election of Representatives came under scrutiny. The Labor Party decided to vote against the proposal on this occasion, ostensibly because it felt that the electors would be confused if they had to vote with crosses on their Senate voting paper and with numerals on their Representatives paper.²² Lyne, the Minister in charge of the bill, arranged during the proceedings in committee to have the clause amended so that it provided in the end for simple-majority voting.²³ The bill was later approved by the House and received the Governor-General's assent on 10 October, 1902.

II

The dualists of 1902 had hoped that the simple-majority voting method would force the Federal Labor Party to unite with the Protectionist Party, and that the latter and the Free Traders would then constitute a conventional two-party system. Things worked out quite differently. The Protectionist Party, caught between two extremes, went into a sudden decline; its share of the vote dropped from 45.96 per cent. in 1901, to 28.42 per cent. in 1903 and to 23.69 per cent. in 1906, while the seats it won in those years fell from 32 to 25 to 17.²⁴ Finally, in 1909 it joined forces with the Free Traders to form the Fusion (later Liberal) Party, which held power under Deakin's leadership for a year. Even so, the Labor Party quickly established a commanding electoral position. It won the 1910 election with 41 seats to the Liberals' 31 (three Independents were returned), lost that of 1913 by one seat only, and won that of 1914 with 42 seats to the Liberals' 32 (one Independent was also elected). The new two-party situation, closely balanced and tense, was certainly not to the liking of the Liberals.

The years between 1910 and 1913 saw a nation-wide attempt on the

part of the Liberals to build up their local organisations and to strengthen, as their federal body, the Australian Liberal Union. As far as electoral discipline was concerned, the Liberal leaders appear to have assumed at first that the constraint of simple-majority voting would be sufficient to produce solidarity amongst non-Labor electors. After their defeat in 1910, they showed little interest in changing the voting method; in 1911, for example, the parliamentary Liberal group did not support an attempt made by W. J. McWilliams to introduce preferential voting in the election of Representatives.²⁵ However, the state Liberal Parties, more closely concerned with the problem of establishing electoral discipline, were forced to consider the use of more flexible voting methods than first-past-the-post. An interest in preventing Labor from winning seats because of split non-Labor majorities was one reason for the restoration of proportional representation in Tasmania in 1907, for the adoption of preferential voting in Western Australia (optional in 1907, compulsory in 1911) and Victoria (compulsory in 1911), and for the introduction of the second-ballot system in New South Wales in 1910 (see Table 1). Even the challenge of Labor's electoral victories of 1910 and 1911 failed to rally the state Liberal Parties, which remained unstable and faction-ridden groups, torn by disputes between Free Traders and Protectionists, moderate liberals and conservatives, farmers and merchants. It was obviously unrealistic for the federal Liberal Party to insist on organisational discipline in Commonwealth politics while the state parties were unable to solve their local problems. The interdependence of the two levels—state and federal—of the Australian party system was being impressed on the Liberal leaders, who became convinced that their party, since it was based on such disparate interests, needed a decentralised and flexible organisation rather than a tightly-knit one of the Labor model and that, in addition, a preferential voting system might actually assist rather than hinder non-Labor unity.

It is not surprising, therefore, that the federal Liberal Party changed its policy on voting methods. Sir Joseph Cook's short-lived Liberal government (1913-14) appointed a Royal Commission to enquire into electoral matters, and Cook promised the electors during the 1914 campaign that if his ministry were returned to office it would bring in a preferential voting law.²⁶ However, his party was defeated at the polls and the subsequent Labor government took little interest in the Royal Commission's recommendation that preferential voting and proportional representation be used in elections for the House and Senate respectively.²⁷

Inside the Liberal Party, the farm groups were now the spearhead of the campaign for voting reforms. During the brief term of the Cook ministry, farmers had complained that the Liberals were ignoring rural demands for tariff reductions, marketing reforms and public works development. Farm groups such as the Queensland Farmers'

Union (QFU) and the New South Wales Farmers' and Settlers' Association (NSW FSA) had already nominated candidates in several state elections, while the more adventurous Western Australia Farmers' and Settlers' Association (WA FSA) had in 1914 formed an eight-member Country Party in the Western Australian Legislative Assembly. Each of these organisations had helped Liberal candidates during the 1913 and 1914 federal election campaigns but their members' fear of splitting the non-Labor vote had prevented them from nominating independent farmers' candidates.²⁸ After 1914 these three farm groups were content to trust the Liberal Party to change the Electoral Act once it was returned to power, but the Victorian Farmers' Union (VFU), a militant organisation formed in 1916, favoured a much stronger line. At the first conference of the Australian Federal Farmers' Organisation (AFFO), held in September 1916, the VFU delegates refused to accept the principle of an electoral alliance with the Liberals. According to VFU records,

a strong move was made by New South Wales and Western Australia to swing the organisation behind the Liberal Party until preferential voting or proportional representation was secured in Federal politics. Mr. Cook had promised the New South Wales delegates this reform as the first plank in the Liberal platform. The visiting delegates from the other States recognised and admitted that the Liberal Party was far from perfection, and declared that they had no intention of supporting it further in Federal politics when the electoral reform was secured. Then the Federal Farmers' Organisation could proceed to run their own candidates as in State politics. The proposition [*ie*, to back the Liberals until preferential voting was secured] was opposed by, and postponed through, the representations of the delegates representing the VFU.²⁹

Within six months of this conference the political situation had been completely altered, firstly by the split in the Labor Party which followed the conscription referendum of October 1916, and, secondly, by the formation in January 1917 of the Federal National Party, an amalgam of the former Liberal Party and the conscriptionist wing of the Labor Party. A National Coalition government was formed in February by W. M. Hughes, the former Prime Minister of the Labor cabinet. In the federal elections of May 1917 the Nationalists won 53 seats to Labor's 22.

The new government appeared to be anxious to give effect to the Liberals' undertaking to alter the Electoral Act. Before the May election, Cook, now Minister for the Navy, had said that "the time [was] ripe for the practical treatment of the question of proportional representation",³⁰ and Hughes himself gave two separate assurances that he would consider the introduction of preferential voting, once in a cable to the president of the WA FSA,³¹ and again before an election meeting at Launceston.³² The Nationalists had little cause for optimism about their electoral security, for although they had won 70.7 per cent.

of the seats in the 1917 election they had actually polled only 54.2 per cent. of the total vote.³³ Twelve of their seats, moreover, had been won with votes in the vulnerable range of 50 to 55 per cent.³⁴ Even if the government had been reasonably confident of maintaining the National Party's organisational and electoral discipline in post-war politics, and of quelling the threatened revolt of the farm groups, it still could not have ruled out the possibility that a recurrence of non-Labor vote-splitting, coupled with a mild increase in Labor support, might have led to its defeat at the next election. The cabinet wisely gave early attention to the possibility of instituting a less rigid voting method than the first-past-the-post system. Patrick Glynn, the Minister for Home and Territories, later pointed out that he could have brought forward a preferential voting bill early in 1918 had it not been necessary also to alter those sections of the Electoral Act dealing with postal voting procedures.³⁵

Meanwhile, the farm groups took every opportunity of unsettling the government. On 22 January 1918, J. J. Hall, the VFU general secretary, wrote to remind Hughes that the National Party was in no position to temporise.

I would also take the liberty of pointing out that without this reform [preferential voting and proportional representation for House and Senate elections respectively] your party will be in serious jeopardy at the next election. It was with difficulty that organisations such as ours were restrained from running candidates at the last Federal election, when, with three candidates in the field your cause would inevitably have suffered with the split vote. We cannot guarantee, and are not likely to give further immunity; in fact, our Organisation at the last Federal election decided to run candidates in all future elections.³⁶

Hughes received similar warnings from the WA FSA³⁷ and from the AFFO, which held its third conference in March 1918,³⁸ but he left for England without having taken any action. The Flinders by-election of May 1918 gave the VFU an opportunity for a stronger protest and it nominated Hall himself as the farmers' candidate, despite the fact that strong Labor and Nationalist nominees were also in the field. The Nationalists were especially concerned about this complication because their candidate, Captain S. M. Bruce, was regarded as a good potential recruit for a party notoriously deficient in young talent. The Acting Prime Minister, W. A. Watt, attempted to persuade Hall to withdraw his nomination by making a personal offer to introduce a preferential voting bill at the next parliamentary session, but the Union refused to withdraw Hall until they received, two days before the poll, a guarantee from the National Party as a whole that Watt's undertaking would be honoured.³⁹ In the event, Bruce won the contest by 14,445 votes to the Labor candidate's 7,740. Hall's name remained on the ballot-paper but drew only 382 votes.

The Flinders deal was a more definite undertaking than those given by Hughes and Cook in 1917, and it seems unlikely that the Nationalists would have committed themselves so firmly had they not considered that such a change was necessary in their own interest. Indeed, Patrick Glynn's statement referred to above suggests that the government was considering a change in the voting method before the Flinders by-election occurred. As factional differences increased within the party, it is probable that the government became less confident of maintaining a united non-Labor front under the simple-majority voting method.

The urgency of the matter was forcibly brought home to the government in September and October, when a by-election was held for the Western Australian seat of Swan, occasioned by the death of Lord Forrest of Bunbury. Four candidates offered themselves—E. W. Corboy (Labor), B. L. Murray (WA FSA), W. N. Hedges (National) and William Watson (Independent)—in spite of Watt's frantic cables from Melbourne urging that two of the non-Labor nominees withdraw their candidatures.⁴⁰ As a result, when the poll was held on 26 October, Corboy was able to win with only 34.36 per cent. of the votes, while his three rivals divided the remainder between them, Murray gaining 31.39 per cent., Hedges 29.61 per cent. and Watson 4.64 per cent. While Labor's cheap victory was being lamented by the conservative press, the year's third federal by-election, for the Victorian seat of Corangamite, appeared about to follow the same pattern. James Scullin, the Labor candidate, had no fewer than four rivals—a Nationalist, an Independent Nationalist, a Returned Soldier Nationalist and a VFU candidate; again it seemed likely that a non-Labor majority would be hopelessly split between two or three powerful candidates.

This prospect certainly affected the government's attitude towards its Electoral Bill, which it had brought before the House on 3 October. The bill had moved slowly through its early stages. However, after the announcement of the Swan result and the Corangamite nominations, the Nationalists made certain that the measure should be passed by both chambers in time for it to apply to the Corangamite by-election. Glynn, the responsible Minister, had the preliminary clauses amended to permit the proclamation of those of the act's provisions governing preferential and postal voting before proclamation of the whole act, which incorporated many other detailed amendments to the existing electoral laws.⁴¹ The necessary proclamations were made promptly⁴² and applied to the Corangamite poll, which was held on 14 December. Scullin obtained the highest total of primary votes but his VFU opponent, W. G. Gibson, attracted most of the Nationalist preferences and was able to defeat him on the final count by 14,096 votes to 10,944.⁴³ Gibson thus became the first Country Party member of the federal parliament.

The debates on the 1918 Electoral Bill⁴⁴ show clearly that the dualist view of the party system, which had still been a matter for dispute in 1902, had by this date become orthodox. Both parties, although they differed in their approach, subscribed to its basic principles without question. A few proportionalists, such as Edmund Jowett (Grampians), were left to argue a lost cause, and one or two men such as Henry Gregory (Dampier) were prepared to suggest that the existence of more than two parties would not threaten the stability of the party system,⁴⁵ but the great majority of the speakers took for granted the idea that the two-party system was both just and desirable. The Labor Party favoured this system because it wanted the parties of reaction and progress clearly defined before the electors, a condition it regarded as essential for good government. One Labor member (Richard West—East Sydney) asked:

Has the intelligence of the House sunk so low that it believes it possible to do away with party machinery and party government? Without the assistance of outside party associations, the National Parliament could not hope to solve the great problems with which we are confronted. It is for parties outside to lay down principles, and for the Parliament to give legislative effect to them. We shall never be able to do without the party system, but I hope we shall never have in this Parliament more than two parties.⁴⁶

The Nationalists also, although they claimed that parties had become so highly organised that the electors were being deprived of their legitimate freedom of choice as regards men and policies, made clear their liking for the two-party system. They welcomed preferential voting mainly because they hoped that it would enable their party to function in a more decentralised and flexible fashion, for, they reasoned, if their restless supporting groups were enabled through preferential voting to run their own candidates for election when they felt inclined, the tensions which were threatening to disrupt the Nationalist movement would be relieved.

“We know,” said one Labor member during the debate, “that the Government are apprehensive of the farmers nominating candidates at the next general election.”⁴⁷ In fact, the government would have been even more alarmed had it realised how independent the farm groups would become. Its main concern was to prevent the splitting of the non-Labor vote at the actual time of the poll, for it fully expected that, once election day rivalries were over, any farmers’ representatives who were returned would work closely with the National Party in the House, and that a separate farmers’ group, were one established, would behave as if it were in fact a Nationalist faction. It should be emphasised that, while the Country Party movement was gathering momentum in 1918, this was not very obvious to the contemporary observer. The state Country Parties of that time were either small and insecure, as in Victoria and South Australia, or closely bound to

the Nationalists, as in Queensland and Western Australia. They had already won a reputation for sectional militancy because of their campaign for improvements in the administration of the wartime wheat pools, but few suspected that they would become any more stable or independent than the weak, ineffective country factions of pre-war politics.

III

During the debates on the Electoral Bills of 1902 and 1918, several speakers did predict that preferential voting would remove the necessity for the pre-selection of candidates and also prevent minority candidates from winning seats by simple majorities. It was on no occasion suggested, however, that the use of the preferential voting method in single-member constituencies would work to the advantage of centre rather than extreme candidates. The failure to foresee this led to serious consequences in both cases, and it certainly merits separate investigation.

The outcome of a closely contested election, involving three or more candidates, depends to an important extent on the type of voting method used. Under both preferential voting and simple-majority rules, of course, a candidate is elected automatically if he obtains over 50 per cent. of the votes; where, however, the vote is evenly divided amongst several candidates none of whom can obtain an absolute majority, the two systems can produce quite different results. This may be illustrated with reference to the simplest example, that of a three-way contest between candidates A, B and C. Under simple-majority rules candidate A could win a contest with votes in the range of 33.4 to 49.9 per cent., the closest possible result being by A's obtaining 33.4 per cent. of the votes and B and C 33.3 per cent. each. However, under preferential voting rules, before candidate A can win he has first to survive exclusion on the first count and then to gain sufficient preference votes to bring his vote to an absolute majority on the second count. He is assured of surviving the first count if he obtains, in a three-way contest, a primary vote of at least 33.4 per cent. (for one of his rivals must in that case have polled a lower vote), but he has a chance of survival should he score a primary vote of between 25.1 and 33.3 per cent. (for example, given a result of A 25.1, B 25.0 and C 49.9 per cent. of the votes, B would be the excluded candidate).

If he manages to remain after the first count, A's next problem is to attract sufficient of the excluded candidate's preferences to bring his total vote to an absolute majority, and thus to defeat the other surviving candidate. He now relies for success on his *preference-assurance*, that is, the proportion of the excluded candidate's votes he is able to obtain. Suppose that C is the excluded candidate, and that A and B are the contestants remaining at the second count. If both A and B have a 50 per cent. preference-assurance from C, then their relative

H

positions on the first count will remain unaltered on the second. Thus a primary result of A 34, B 36 and C 30 per cent. of the votes will produce a final result of A's having 49 and B 51 per cent. of the votes, the numerical gap between A and B having remained unaltered by the distribution of preferences. As A's preference-assurance from C rises above 50 per cent., so his ability to win from low primary votes will be increased proportionately, while to the extent that it falls below 50 per cent., his ability to win, even from primary votes in the 40-50 per cent. range, will be lessened. A preference-assurance of 75 per cent. from C would enable A to defeat B from primary votes as low as 28.6 per cent. (for example, a primary result of A 30, B 42, and C 28 per cent. would then produce a final result of A 51 and B 49 per cent. of the votes). B's handicap in this example, a low preference-assurance of 25 per cent. from C, illustrates the opposite point—that unless a candidate can attract more than one quarter of the excluded candidate's preferences he will have no chance of winning a second count if he has primary votes of less than 42.9 per cent. While under the preferential voting method all candidates have an equal chance of exclusion on the first count, those candidates who survive exclusion, and have a high preference-assurance from the excluded candidate, can win seats with primary votes which would bring them certain defeat under simple-majority rules. Conversely, a minority candidate with a low preference-assurance finds himself placed at a greater disadvantage under the preferential voting than under the simple-majority voting method in which, as we have seen, he could win with a vote as low as 33.4 per cent.

The factor of ideology may now be introduced by classifying A, B and C as right, centre and left candidates respectively. In this case, under preferential voting, right-wing electors would usually vote A1, B2 and C3, while left-wing electors would vote in the reverse order. As a result, the centre candidate, B, would usually have a high preference-assurance from each of his two rivals and would thus stand an excellent chance of winning every contest from which either A or C was excluded and his preferences distributed. The application of the preferential-voting method in a system of right, centre and left parties, therefore, results in a high proportion of centre victories in constituencies where political forces are evenly balanced. In the long run, such victories could have the cumulative effect of exaggerating the electoral and parliamentary strength of the centre party—or of a minor party treated by the electors as if it were a centre party.⁴⁸

Had the Barton government appreciated this fact in 1902, and had it persisted with its original intention of introducing a preferential voting method for the election of Representatives, the Protectionist Party might have fared better in the 1903 and 1906 elections. On both these occasions it lost seats because of split voting: a divided Protectionist vote gave simple-majority wins to several Free Traders (Flin-

ders, Grampians and Corangamite in 1903, and Corangamite in 1906) and to some Labor nominees (Southern Melbourne 1903, and Melbourne Ports 1906). A preferential voting method would not only have enabled the Protectionists to retain these seats, it would have checked the defection of their voters to the extremes and, as seen above, have enabled the Protectionists to win many of those contests in which votes were evenly divided between the three parties.

Similarly, when the 1918 Act was passed, no one suggested that it might encourage the emergence of a centre party—or a party which the voters assumed to be a centre party. Despite the fact that, except in Victoria, the Country Party's component farm groups were conservative in outlook and policy, both National and Labor voters gave Country Party candidates their second preferences in the 1919 and 1922 elections. As a result, in triangular contests in which the Country Party candidate survived the primary count, his high preference-assurance from whichever of his rivals was excluded gave him an excellent chance of victory. During the course of the 1919 and 1922 elections, there were ten such contests of which the Country Party won nine, in several cases from primary votes of less than 33.33 per cent. The relevant figures are given in Table 2. Of special note is the Corangamite contest of 1922, won by the Country Party candidate with a low primary vote of 28.52 per cent. and 94.20 per cent. of the excluded Nationalist candidate's preferences. The farm groups themselves were probably surprised and delighted by this unexpected effect of the preferential voting method. They had pressed for the change not because they had anticipated such an advantage but because they wanted to remove the fears of vote-splitting which had hitherto discouraged farmers from supporting sectional candidates.

Nevertheless, a federal Country Party would certainly have been formed even had the simple-majority voting method been retained. Farmers were turning to sectional politics because they were dissatisfied with the running of the marketing pools, with the drift towards higher protective tariffs and because they wanted to promote trade decentralisation. Had first-past-the-post voting still obtained at the time of the 1919 and 1922 elections, the strongest of the farm groups would probably have run their own candidates, and they could well have captured such seats as Wimmera and Echuca in Victoria, Riverina in New South Wales, the Swan and Dampier in Western Australia. In the event, however, the operation of preferential voting did help the party to make a decisive, rather than a partial, electoral breakthrough.

IV

As attempts to demonstrate a definite casual relationship between certain electoral methods and certain types of party systems are now, happily, out of favour, political scientists have shown a greater willing-

ness to regard electoral and voting methods as being only two of several factors influencing the development of a party system, and as being decisive only in exceptional circumstances. But the task of estimating the extent of their influence remains. It has been suggested above that the simple-majority voting method provided by the Act of 1902 probably hastened the decline of the Protectionist Party, but it is nevertheless true that this decline was essentially the product of economic and social causes which lay outside the party system itself. All that can be done in this regard is to point out that the voting method adopted in 1902 did work against the Protectionists, just as preferential voting would in fact have worked for their survival as an electoral force.

Up to the present, insufficient attention has been given to the circumstances under which Australia's electoral laws have been conceived. More information is needed about the attitude of politicians towards voting methods; are they considered as weapons for electoral combat, or as a means of maintaining the *status quo*, or as a means of encouraging the party system to develop in a certain direction. Any such attitudes, of course, arise from a wider theory of politics. In the enactment of the electoral laws of 1902 and 1918, the politicians made a deliberate attempt to assess the actual state of their party system and to predict the lines along which it would evolve. They were making the choice between different electoral methods in terms of their divergent views of what was happening, and what was likely to happen, to their party system.

In 1902, for example, the supporters of preferential voting and proportional representation wished to arrest the drift to authoritarianism and organisational discipline in Australian politics, to liberalise elections and to promote the growth of flexible and dynamic parties sympathetic to electoral trends. The men who opposed these methods, and who finally secured the inclusion in the Electoral Bill of simple-majority voting rules, wanted to prevent the existing parties from disintegrating into factions and to impose constraints which would ensure that all groups and interests were worked into the structure of a firm two-party system. Neither side in the debate, however, appreciated the force which lay behind the emergent Labor Party, whose subsequent electoral expansion completely upset their calculations. Had the Barton government correctly estimated Labor's potential strength and realised that the Protectionists would definitely remain a centre party, they might not have abandoned the preferential voting proposal so lightly. It was their assessment of the situation which was at fault. In 1918 the Nationalist government was equally mistaken in its estimate of the farm groups' intentions. It apparently assumed that the introduction of preferential voting would both prevent Labor from winning seats because of split non-Labor majorities and at the same time make possible some degree of independent electoral action by

restless groups within the National Party. They had not foreseen that this voting method would prove so helpful to centre candidates and thereby facilitate the emergence of the Country Party, or that the farm groups would have the resources and the determination to sustain independent electoral action.

TABLE 1

Voting Methods in Force for Lower House Elections, 1896-1920

Abbreviations: sm = simple-majority voting method

cpv = compulsory preferential voting method

opv = optional preferential voting method

pr = proportional representation

sb = second ballot

(Numbers refer to the principal Acts dealing with voting methods)

Years	Comm. H of R	NSW LA	Vic LA	Qld LA	SA H of A	WA LA	Tas H of A
1896-1900		No. 38 1893 sm	No. 1075 1890 sm	No. 7 1892 opv	No. 141 1879 sm No. 667 1896 sm	No. 31 1895 sm No. 20 1899 sm	No. 13 1890 sm No. 49 1896 sm + pr
1901-05	No. 19 1902 sm	No. 33 1902 sm				No. 20 1904 sm	No. 57 1901 sm
1906-10		No. 41 1906 sm No. 18 1910 sb			No. 971 1908 sm	No. 27 1907 opv	No. 6 1907 pr
1911-15		No. 41 1912 sb	No. 2321 1911 cpv No. 2632 1915 cpv	No. 13 1915 opv		No. 44 1911 cpv	
1916-20	No. 27 1918 cpv	No. 40 1918 pr					

Critics of Maurice Duverger's theories on the interaction between electoral methods and party systems have claimed in the past that since parliaments make laws, including electoral laws, a particular group of parties will usually obtain the voting method best suited to its needs. This line of argument has sometimes been pursued to the conclusion that electoral laws, being themselves a product of the party

TABLE 2

Preference Counts and the Country Party, 1919 and 1922 Federal Elections

	Percentage of Valid Vote at:				Percentage Distribution of Preferences:		
	Count 1	Count 2	Count 3	Count 4	To ALP	To Nat	To CP
<i>1919 Election</i>							
Corangamite							
ALP	31.17					3.88	96.12
Nat	37.41	38.62					
VFU	31.42	61.38					
Echuca						12.08	87.92
ALP	23.59						
Nat	33.13	35.98					
VFU	43.28	64.02					
Indi					3.24		96.76
ALP	36.37	37.39					
Nat	31.44						
VFU	32.19	62.61					
Swan					12.54		87.46
ALP	39.14	41.95					
Nat	22.40						
FSA	38.46	58.05					
<i>1922 Election</i>							
Corangamite							
ALP	44.53	46.10					
Nat	26.95				5.80		94.20
VFU	28.52	53.90					
Gippsland						14.57	85.43
ALP	27.44						
Nat	33.15	37.15					
VFU	39.41	62.85					
Indi					6.87		93.13
ALP	35.01	36.78					
Nat	25.67						
VFU	39.32	63.22					
Gwydir					21.72		78.28
ALP	46.33	50.08					
Nat	17.27						
CP	36.40	49.92					
Riverina				45.66			
ALP	41.11	41.25	41.63				
Nat	20.74	21.17	23.92		16.87		83.13
CP	8.75	9.59					
CP	26.51	27.99	34.45	54.34			
CP	2.89						
Wilmot					14.21		85.79
ALP	32.22	32.63	34.74	38.81			
Nat	23.91	24.77	28.65				
CP	22.66	23.84	36.61	61.19			
CP	17.46	18.76					
CP	3.75						

*Sources: Statistical Returns for Elections, *CPP, General*, 1920-21, vol. 4, pp. 307-478; 1923 and 1923-24, vol. 2, pp. 113-320.

system, cannot be regarded as external factors influencing the development of that system. However, parties rarely obtain voting methods entirely appropriate to their needs, for they generally lack the combination of experience and foresight necessary to assess correctly their own situation, and further, to make predictions on the basis of such an assessment. Even should they do so, they still have to cope with contingencies and unforeseen events. The best that they can do is to hope that the electoral method which they have chosen will produce the results which they have in mind and meet the needs they consider important. Once an electoral law is placed on the Statute Book it becomes part of a formal structure of rules and institutions within which parties have to operate and to which they have to conform; their control over it has ceased. The voting method thus brought into being will form one of the constants bearing on their party system until such time as the act is amended.

I5

THE EFFECT OF THE “DONKEY VOTE” ON THE HOUSE OF REPRESENTATIVES

C. J. Masterman

From time to time, the question of the “donkey vote” for the House of Representatives is raised—most recently in a monograph by an economics graduate of the University of Sydney, published by the Australian Political Studies Association.¹ This convincingly demonstrated that a donkey vote does exist in elections for the House. The monograph analysed the vote for minor parties and independents: on the one hand when they headed the ballot paper and thus derived benefit from the donkey vote, on the other when they did not. It suggested that there was roughly a 3% advantage to be gained from holding the top position on the paper. I propose to look at the donkey vote from a somewhat different point of view. The APSA monograph has shown that it exists. How far has it affected the membership of the House of Representatives by favouring the election of members with advantageous names?

The distribution of names in the population as a whole can easily be established by analysing an electoral roll or a telephone directory. The list of names can be divided up into roughly equal quarters: the dividing points seem to occur at approximately the same place in any Australian electorate or telephone directory. Here, for example, is how the electorate of Fawkner, Victoria, divides up.

Distribution of names in an electorate

Initial	Prahran	South Yarra	Armadale	Toorak
A-D	2287	2955	2231	1806
E-K	2229	2914	2211	1718
L-Q	2183	2790	2143	1658
R-Z	2291	2950	2321	1767
	4516	5869	4442	3524
	4473	5740	4464	3425

The half-way mark, the point at the centre of each list of names, occurs as follows: Armadale: La, Prahran: Kr, South Yarra: Kn, Toorak: Kn.

We find similar results by counting the pages of a telephone directory.

Distribution of names in Telephone Directories
(No. of pages)

Initial	Sydney	Melbourne
A-D	317	217
E-K	258	241
L-Q	257	200
R-Z	282	230

The half-way point comes a little earlier in these telephone books—at about Ke in both cases. So in a random sample of Australian surnames, the mid-point will occur somewhere between Ke and La, and the sections of the alphabet A-D, E-K, L-Q and R-Z inclusive will be roughly equal, with 25% of names each. For convenience, we can take it that the mid-point of the alphabet occurs between K and L.

In the Senate, the normal population distribution is fairly accurately reflected: there are 28 Senators in the A-K group and 32 in the L-Z group. It appears that the Senate's composition is no longer much affected by the alphabetical listing of candidates before 1940: now that there is no alphabetical advantage on the Senate ballot paper, the distribution of the population at large applies. But in the House, there are 84 members in the A-K group, and only 40 in the L-Z group. The distribution of the House elected in 1963 is:

Distribution of names, House of Representatives, 1964

Initial	
A-D	44
E-K	40
L-Q	21
R-Z	19

The present House has more than twice as many members in the A-K group than in the L-Z group: and furthermore, each group is smaller than the one before it. Such a disproportion can scarcely be explained away as the result of chance. We find a similar disproportion if we examine the names of all the members of the House of Representatives since Federation. However, the difference is smaller: the A-K group is only 43% larger than the L-Z group.

Distribution of names, House of Representatives, Federation to 1959

Initial		
A-D	148	} 296
E-K	148	
L-Q	118	} 216
R-Z	98	

Why has the disproportion grown larger, so that over the whole period it is 43% while at present it is 110%—apart from the possibility that voters care less about the results of elections than they used to? The introduction of compulsory voting may have aggravated the donkey vote problem, for the typical donkey voter is assumed to be the voter who has no interest in the election but who, being compelled to vote, votes straight down the ballot paper. If we divide the years since federation, 1901-1959, into two periods, pre- and post-compulsory voting, we can see that the figures do suggest that compulsory voting has increased the effect of the donkey vote.

Distribution of names, House of Representatives, before and after the introduction of compulsory voting

Initial	Before 1924	After 1924
A-D	56	92
E-K	70	78
L-Q	60	58
R-Z	52	46

The A-K group, before compulsory voting was introduced, was only about 12% larger than the L-Z group. But among members elected since the adoption of compulsory voting, the A-K group was 65% larger. The preponderance of A-K over L-Z is as follows:

1910-1924	12%
1924-1959	65%
1964	110%

There are two ways the donkey vote could have worked to cause this marked disproportion in the House of Representatives.

1. The donkey vote gives the candidate with an advantageous name—not necessarily at the top of the list, but the major-party candidate highest on the paper—a significant advantage.
2. Candidates may be pre-selected for their favourable names by the parties.

We can be reasonably certain that the first factor operates, both from the research in the APSA monograph on the varying size of the vote for minor parties and independents, depending on ballot-paper position and from the distribution of names of members of the House of Representatives. The point is emphasised by comparing the names of successful candidates in an election, with the names of the main unsuccessful candidate in each electorate. For the 1961 election, the distribution was as follows:

Distribution of names, House of Representatives candidates, 1961

Initial	Successful	Unsuccessful
A-D	44	32
E-K	38	29
L-Q	22	33
R-Z	20	30
	} 82	} 61
	} 42	} 63

Do the parties deliberately choose candidates with suitable surnames? Certainly the minor parties appear to be aware of the advantages of the donkey vote: in New South Wales in 1961 "no less than 20 of the DLP's 39 candidates for the House of Representatives had names beginning with A, B or C. Similarly no less than five of the Communist Party's ten candidates for the House of Representatives had names beginning with A, B or C. . . . [In 1961] of the 124 [Australia-wide] ballot papers 62 were headed by a minor party candidate or by an independent, 33 by a Liberal or Country Party candidate and 29 by an A.L.P. candidate."²

These figures, incidentally, suggest why, despite the donkey vote, the candidates at the top of the list did much worse in the election than those lower down. The really important question is the relative position of the two major-party candidates.

Do the major parties deliberately choose candidates for their surnames? The idea is not unheard-of: in 1937, the New South Wales Labor Party nominated the celebrated "Four A's" (Amour, Armstrong, Arthur and Ashley) largely for the purpose of securing top place on the Senate ballot paper. They were all elected. The APSA monograph suggests: "Selection of candidates by alphabet is not common among the major parties. There are, of course, cases in marginal seats in which the party which is endeavouring to wrest the seat from the opposing party will select a candidate higher alphabetically than the sitting member in order to get the 3% bonus which this will yield. But these cases are rare."³

It is difficult to be certain that they *are* rare. It would certainly be

strange if the parties were to ignore this important factor in making a choice between two equally-qualified candidates for a marginal seat. And if they have considered this factor, it is no wonder that over the years this has had a cumulative effect on the composition of the House. For usually the candidates in marginal seats are young men just starting their federal political careers: when they become established in the party and are valuable to it, they may be transferred to safer seats. If they are defeated, they may be discarded by the party in favour of another candidate—one, perhaps, with a more favourable name. The marginal seats are often the start of a political career: if the parties choose candidates for these seats partly on the basis of their names, it will in time affect many members of the House.

The donkey vote is by no means a trivial problem. In 1961, an alteration of the order of the names on the ballot paper would have changed the result in seven seats (Bennelong, Evans, Bowman, Lilley, Cowper, Robertson and Moreton). If the development since 1924 continues, can we look forward to a time when only the most exceptional MHR's will have names in the L-Z group? Since no-one suggests that having a name falling in the first half of the alphabet is a particular qualification for political office, the situation seems to be a totally irrational one. We cannot eliminate the donkey vote: but by a random arrangement of names on ballot papers we can at least ensure that the field from which politicians are drawn is not artificially and unnecessarily restricted.

16 | COMPULSORY VOTING

Colin A. Hughes

For many years compulsory voting has been a feature of parliamentary government in which Australian experience departs from that of the Anglo-American democracies. However, it is a feature which has been little discussed, and such discussion as has taken place has invariably been critical of its implications or its consequences. It is probably time to introduce a few new facts to the discussion, to review the arguments for and against compulsory voting used at the times when it was introduced to the various electoral systems of Australia and to ascertain how fifty years of experience has dealt with them.

Compulsory voting was introduced to Australia by the Denham Liberal Government of Queensland in time for the 1915 general election. The measure followed closely after major amendments of electoral law, and appears to have been the last desperate attempt of a government on the skids to save itself; in the event the attempt was unsuccessful. Over the next 28 years the other States and the Commonwealth followed suit: the Commonwealth in 1924, Victoria in 1926, New South Wales and Tasmania in 1928, Western Australia in 1936 and South Australia in 1942. As the necessary legislation was introduced in each of the various legislatures, arguments for and against the principles and the consequences of compulsory voting were adduced. A cumulative list can be constructed from the debates (excluding Tasmania because of its lack of a *Hansard*) as follows.

ARGUMENTS FOR COMPULSORY VOTING

1. Democratic government means majority rule and the expression of an opinion by a majority of electors: ". . . If you have 25 per cent. of the people who are entitled to vote not voting, you can never tell how the majority really goes . . . We want the biggest poll possible, so that the people once for all will understand that the majority of the

people of Queensland who vote are in favour of the policy of the Liberal party or of the Labour party.”

2. Voting is analogous to other duties society requires of citizens, such as giving evidence in court proceedings, jury service, paying rates, compulsory education or military service.

3. Voting is the most important civic duty, yet the burden is extremely light: once or twice every three years.

4. The voter is not compelled to vote for anybody; he can always spoil his ballot. He is merely compelled to go to the polling booth “. . . and the chances are very strong that once an elector is at the polling-booth he will feel disposed to exercise his right”.

5. Compulsory voting is a necessary corollary of compulsory enrolment without which the expense and penalties of compulsory enrolment would be pointless. This argument was introduced primarily to estop Labor criticism of compulsory voting, for the federal Labor Party had already introduced compulsory enrolment.

6. Compulsory voting would stop the growing demand of voters who had “got into a loose way of voting” for motor-car transport to the polls.

7. Social pressure applied by the trade union movement had already enforced compulsory voting of Labor supporters.

8. Turnout figures were too low, particularly in the post-war period (see Tables 3 and 4 below).

9. The quality of legislation coming from legislatures elected by a minority vote would deteriorate, whereas “the fact that legislation was considered by members representing a greater number of people than hitherto would have a good effect upon the community”.

10. Compulsion would enforce political education.

11. The franchise had been fought for, and therefore should be used.

12. As individual liberty consists in exemption from legal control, so political liberty consists in participation in legal control. The opinion was Bryce’s.¹

13. Those who most readily criticise legislation are the least zealous in exercising the franchise; they would be taught to be good democrats by becoming responsible for public acts.

14. Compulsory voting helps cleanse the rolls by checking on non-voters.

15. When most States had adopted compulsory voting, this was taken to be evidence that it must be beneficial.

16. Once voting at Commonwealth elections was compulsory, non-compulsory State elections would suggest that the State Parliament was inferior to the Commonwealth Parliament.

17. Compulsion would emphasise their responsibilities to electors: "I always feel that the fact of voting being compulsory adds to the prestige of the performance, as it is obligatory rather than a matter of choice."

ARGUMENTS AGAINST COMPULSORY VOTING

1. Compulsion cannot ensure a formal vote or an intelligent vote.
2. Compulsory voting is an infringement of liberty. The State does not have the right to compel a man to vote for a candidate with whom he does not agree or in whom he does not believe. (Until exemptions for persons with religious scruples were provided, their difficulties were sometimes cited.)
3. It would be difficult to decide what constituted a sufficient or valid excuse for not voting, and to give enforcement officers sufficient discretion.
4. Compulsory voting was not the same as compulsory enrolment. The latter could be effected at any time, and did not interfere with conscience: "Compulsory enrolment provides that a man shall hold himself in readiness to cast a vote at the proper time if he shall be so minded. Why should he be compelled to cast a vote if he is not so minded?"
5. In early years it was argued that compulsion would not work. The burden on electors in remote areas would be excessive. There would be too much work in following up non-voters. No government would have the courage to prosecute 10,000 non-voters. No court would ever convict.
6. There was no justification for such an important change, no compilation of evidence warranting it.
7. How can a man educate himself politically? By reading the Melbourne press or attending the Yarra bank?
8. A member has a duty to all his constituents, whether or not they voted for him, or whether they voted at all.
9. The cost of administering elections will be increased.
10. The proportion of informal votes cast will increase.

Some of the arguments against compulsory voting have long since fallen by the wayside, and today the two most commonly advanced are that it infringes the liberty of the individual elector and that, in Senator Gardiner's oft-quoted words, the "opinions of the negligent and apathetic section of the electors are not worth having". However, nowhere in Australia have there been significant attempts to abolish compulsory voting once it had been introduced. One explanation is a

tacit agreement by all political parties to retain a device which assists them:

... It is evident that our representatives in parliament, whether they belong to the government party or not, are impressed by the usefulness of these laws in getting in the vote with a relatively small expenditure of energy and party funds; they are persuaded that it suits their more sinister interests not to remove this morbid appendix from the body politic.²

Another may be that compulsory voting is accepted by the great majority of electors, and offends very few. It is now a settled policy or "democratic rite".³

The case for the abolitionists usually begins with the interference with liberty; compulsory voting "subtracts from the area of conduct that should be governed solely by the adult person's own conscience".⁴ Morris Jones suggests that membership of political society confers rights—some of which are universal, such as the right to vote, and some are not—and duties—some of which are universal and some are not, such as the duty to vote. In the parliamentary debates and in the survey answers reported below there is frequent and muddled use of "right" and "privilege", sometimes synonymous or nearly so, sometimes distinguished. It appears that those who are opposed to compulsory voting invariably start with the assumption that voting is a right. If it is a privilege to which society could attach conditions, their opposition would be less soundly based.

What parliamentarians and electors find repugnant about compulsion in practice, with which they are primarily concerned, is that it forces voters to support or endorse candidates or parties of whom they do not approve. The vote is seen as a positive act committing the voters to approval of that voted for. If, however, voting is seen as an ordering of preferences, this difficulty is substantially reduced. There may well remain a group who have equal preferences, and are unwilling to make the effort necessary to secure additional information to alter them, but it seems likely that the repugnance of a voter spoiling his ballot because he believes that either party will provide him with equal benefits will be less than that of the voter who will not declare his support for a party which he believes unworthy of support.

Those outside Australia who argue that compulsory voting is incompatible with liberal democracy also make much of guilt by association in that a number of totalitarian or non-democratic countries have introduced compulsory voting or applied substantial socio-economic pressure to vote. Thus Mayo: "A *prima facie* distrust of the universal duty to vote is also engendered by the example of the totalitarian states, where voting is regarded as a duty and non-voting as disloyalty."⁵ Morris Jones: "It needs no demonstration that a totalitarian view of political life easily involves an obligation not only to vote, but to do much more—and do it all, moreover, in the 'right'

TABLE 1
Commonwealth—Informal Votes

Year	Comm. HR Sen.	N.S.W. HR Sen.	Vic. HR Sen.	Qld. HR Sen.	S.A. HR Sen.	W.A. HR Sen.	Tas. HR Sen.
1901	1.6* ?	1.9 ?	0.8 ?	2.5 ?	1.6 2.3	1.0*20.2	2.9 2.2
1903	2.5 3.6	2.8 4.9	1.8 2.2	2.6 3.7	2.7 2.2	4.9 6.0	3.1 3.9
1906	3.7 6.4	3.3 7.3	3.8 6.2	4.2 5.9	5.0 3.9	4.2 6.7	3.9 4.5
1910	2.0 4.6	1.6 4.7	1.6 4.6	3.0 5.2	5.0 3.3	2.1 5.4	2.5 3.3
1913	2.8 5.6	3.1 6.7	2.0 4.4	2.7 5.1	4.8 5.7	3.1 6.2	3.2 6.2
1914	2.3 4.2	2.4 5.0	1.8 3.3	2.7 4.2	2.3 3.8	3.2 5.3	2.4 4.7
1917	2.6 3.9	3.0 3.8	2.1 3.2	2.1 4.8	3.5 4.4	3.6 5.2	3.1 3.7
1919	3.5 8.6	3.8 9.4	2.4 7.8	3.3 8.0	5.4 9.1	3.8 9.0	5.0 9.7
1922	4.5 9.4	4.5 10.0	3.2 7.9	4.8 10.7	6.7 9.3	6.3 9.2	6.4 9.3
1925	2.4 7.0	1.9 6.4	1.6 7.6	3.3 6.4	4.3 5.9	3.1 7.4	4.9 11.3
1928	4.9 9.9	4.8 8.8	3.2 10.0	5.5 8.8	9.4 11.9	3.8 12.3	6.4 15.7
1929	2.6 —	2.8 —	1.4 —	4.0 —	4.1 —	2.3 —	1.9 —
1931	3.5 9.6	3.6 9.4	2.8 9.0	2.9 8.6	5.3 12.6	3.5 9.4	4.7 13.9
1934	3.4 11.3	3.3 13.2	3.0 9.7	2.6 5.5	6.3 14.5	3.7 12.8	3.9 16.3
1937	2.6 10.6	2.3 8.9	1.9 13.4	2.6 6.9	5.0 13.4	3.5 12.7	2.8 12.6
1940	2.6 9.6	2.9 11.6	1.8 8.9	2.1 5.3	3.6 8.2	3.0 9.5	3.1 13.0
1943	2.9 9.7	3.1 12.0	2.7 8.5	2.3 7.3	3.0 7.4	3.5 8.0	3.6 13.5
1946	2.4 8.0	2.4 8.4	2.0 7.3	2.7 6.7	3.1 9.1	2.9 7.7	2.6 11.8
1949	2.0 10.8	2.0 12.0	1.6 10.7	2.1 7.1	2.2 11.6	2.3 10.0	2.6 10.5
1951	1.9 7.1	1.9 7.9	1.6 6.8	1.9 4.7	2.1 5.8	2.5 8.9	3.1 11.6
1953	— 4.6	— 4.0	— 5.6	— 2.6	— 4.9	— 7.2	— 5.1
1954	1.3 —	1.3 —	1.2 —	1.1 —	2.5 —	1.7 —	1.0 —
1955	2.9 9.6	2.8 8.8	2.6 13.5	2.2 4.1	4.1 8.9	3.5 10.0	4.2 12.6
1958	2.9 10.3	2.8 12.5	2.4 9.9	3.0 7.2	3.3 7.7	3.6 9.4	4.1 11.2
1961	2.6 10.6	2.4 12.7	2.3 10.7	2.7 8.5	3.1 5.6	3.2 10.0	3.2 10.0
1963	1.8 —	1.6 —	1.5 —	2.2 —	2.7 —	2.4 —	1.2 —
1964	— 7.0	— 6.2	— 8.4	— 7.1	— 7.5	— 6.0	— 3.5

*approximate ? not ascertainable

— Introduction of Commonwealth compulsory voting. = Introduction of State compulsory voting.

direction.”⁶ Students of totalitarian systems might think that greater emphasis was placed on the right direction of voting than on the act itself. The argument is partly the obverse of one used by supporters of compulsory voting in the 1930s that electoral apathy bred totalitarian politics; their opponents had answered by pointing out that feverish electoral activity can precede collapse into dictatorship, as illustrated by Weimar Germany. Despite Whittington’s strictures, it is difficult to show that Australia has edged noticeably nearer to dictatorship or a totalitarian society over the past thirty or forty years, and this writer prefers Robson’s view that it is “a great mistake to argue for or against a proposal of this kind on the abstract plane of what is or is not theoretically justified in the life of the state. The whole question

TABLE 2
States—Informal Votes

Year	N.S.W.	Vic.	Qld.	S.A.	W.A.	Tas.
1901	0.8	—	—	—	2.0	—
1902	—	0.4	1.0	1.3	—	—
1903	—	—	—	—	—	1.4
1904	1.0	1.0	0.6	—	1.0	—
1905	—	—	—	51.	1.0	—
1906	—	—	—	1.3	—	1.2
1907	2.9	0.6	1.7	—	—	—
1908	—	0.5	1.1	—	1.2	—
1909	—	—	1.1	—	—	2.9
1910	1.8	—	—	1.6	—	—
1911	—	1.4	—	—	1.4	—
1912	—	—	1.2	1.3	—	2.8
1913	2.3	—	—	—	—	2.9
1914	—	2.3	—	—	1.2	—
1915	—	—	1.6	1.0	—	—
1916	—	—	—	—	—	5.7
1917	1.0	3.1	—	—	1.7	—
1918	—	—	1.2	1.4	—	—
1919	—	—	—	—	—	4.0
1920	9.7	4.4	1.0	1.2	1.6	—
1921	—	0.8	—	—	—	2.6
1922	3.6	—	—	—	—	—
1923	—	—	1.2	—	—	—
1924	—	1.0	—	1.1	1.2	—
1925	3.3	—	—	—	—	2.2
1926	—	—	1.2	—	—	—
1927	1.3	1.9	—	1.8	1.4	—
1928	—	—	—	—	—	3.2
1929	—	1.1	1.6	—	—	—
1930	2.2	—	—	5.7	1.1	—
1931	—	—	—	—	—	—
1932	2.2	1.4	1.1	—	—	3.4
1933	—	—	—	—	—	—
1934	3.0	1.6	1.7	—	—	3.2
1935	—	—	—	—	—	—
1936	—	1.4	—	—	1.1	—
1937	2.6	—	1.3	2.2	—	2.4
1938	—	—	—	—	—	—
1939	—	1.6	—	—	1.7	—
1940	2.5	—	1.8	2.0	—	—
1941	—	—	—	—	—	5.0
1942	—	2.6	—	—	—	—
1943	—	—	—	—	2.5	—
1944	3.3	—	1.8	3.2	—	—
1945	—	2.1	—	—	—	—
1946	2.0	1.3	1.3	3.6	2.0	10.1
1947	—	—	—	—	—	—
1948	—	—	—	—	—	3.9
1949	1.8	1.1	1.1	3.3	2.0	4.5
1950	—	—	—	—	—	—
1951	—	1.8	—	—	—	—
1952	2.5	—	—	2.9	2.6	—
1953	—	—	—	—	—	—
1954	—	2.2	—	—	—	3.8
1955	1.7	—	1.2	2.4	2.8	4.2
1956	—	—	1.1	—	—	—
1957	—	1.8	—	—	—	—
1958	1.8	—	—	2.9	2.6	5.8
1959	—	—	1.3	—	—	—
1960	—	2.4	—	—	1.8	—
1961	1.5	—	—	2.5	—	—
1962	2.3	—	1.5	—	—	—
1963	—	—	—	—	—	—
1964	—	—	—	—	—	4.3

should resolve itself into what is practically expedient or the reverse: that is to say, into a weighing of actual advantages against actual disadvantages".⁷ The practical considerations might be stated to be, first, has compulsory voting inflated the informal vote, second, has it increased the total vote, third, has it been widely regarded as oppressive, fourth, has it promoted political education, and fifth, what effect has it had on political participation generally?

The first consideration is dealt with in Tables 1 and 2. Informal voting shows only a minute increase after the introduction of compulsory voting in most electoral systems. In New South Wales the average actually falls from 2.9 per cent. for the nine elections in the 20th

TABLE 3
Commonwealth—Turnout¹

Year	Comm.	N.S.W.	Vic.	Qld.	S.A.	W.A.	Tas.
1901	56.7	68.3	56.6	62.5	40.8	31.9	47.6
1903	46.9	47.2	51.2	54.8	32.6	28.3	45.0
1906	50.2	51.7	56.7	45.9	36.5	36.2	54.2
1910	62.2	61.4	66.6	61.1	53.2	62.1	58.5
1913	73.7	69.3	75.5	77.3	80.1	73.5	75.3
1914	72.6	64.8	79.1	75.1	80.1	71.5	77.6
1917	77.7	70.7	83.9	89.0	71.9	77.8	76.0
1919	71.3	66.5	76.2	84.8	66.4	63.1	58.7
1922	57.9	54.5	56.2	82.7	53.2	46.7	45.6
1925	91.3	90.3	93.0	90.8	92.8	89.7	88.7
1928	93.6	93.2	94.7	93.5	94.2	90.3	92.7
1929	94.5	94.5	95.8	94.6	94.9	89.0	95.2
1931	95.0	95.0	95.7	94.3	95.9	91.3	96.4
1934	95.0	95.8	95.1	94.6	95.0	90.3	95.8
1937	96.1	96.6	96.1	95.7	96.7	92.9	96.0
1940	94.7	94.5	95.6	93.9	95.7	92.8	94.8
1943	96.3	96.5	96.4	94.6	96.9	97.4	97.0
1946	94.0	94.5	93.7	92.7	95.0	92.9	93.7
1949	96.0	96.4	95.9	94.5	96.8	95.4	96.0
1951	96.0	96.0	96.0	95.3	97.1	95.6	96.7
1953	94.9	94.6	94.9	94.7	96.5	94.3	96.2
1954	96.1	96.1	95.9	96.0	96.8	96.2	96.3
1955	95.0	95.2	94.5	94.4	96.1	95.0	96.3
1958	95.5	95.2	95.7	95.0	96.5	95.4	96.2
1961	95.3	95.2	95.5	94.7	96.1	94.7	95.7
1963	95.7	95.3	96.3	95.3	96.6	95.3	96.0
1964	94.5	93.7	94.8	94.9	95.8	94.0	96.1

1. When House of Representatives and Senate both contested, then calculated for Senate to avoid uncontested seats.

= Introduction of State compulsory voting.

— Introduction of Commonwealth compulsory voting.

TABLE 4^a
States—Turnout

Year	N.S.W.	Vic.	Qld.	S.A.	W.A.	Tas.	Year	N.S.W.	Vic.	Qld.	S.A.	W.A.	Tas.
1901	72.5	—	—	—	46.0	—	1932	96.5	94.2	92.8	—	—	—
1902	—	65.4	78.9	60.3	—	—	1933	—	—	—	59.4	90.6	94.5
1903	—	—	—	—	—	58.1	1934	—	—	—	—	—	—
1904	59.3	63.4	84.4	—	48.2	—	1935	91.6	94.4	92.7	—	—	—
1905	—	—	—	61.2	51.9	—	1936	—	—	—	—	70.1	94.3
1906	—	—	—	55.8	—	67.9	1937	95.8	94.0	—	63.3	—	—
1907	66.7	61.3	71.6	—	—	—	1938	—	—	92.5	—	—	—
1908	—	53.6	78.9	—	66.5	—	1939	—	—	—	—	91.6	—
1909	—	—	72.6	—	—	52.6	1940	—	93.4	—	—	—	—
1910	69.0	—	—	71.0	—	—	1941	92.5	—	90.3	50.7	—	91.2
1911	—	63.6	—	—	74.9	73.5	1942	—	—	—	—	—	—
1912	—	—	75.5	71.9	—	67.2	1943	—	87.0	—	—	86.5	—
1913	68.2	—	—	—	—	—	1944	91.4	—	87.5	88.5	—	—
1914	—	53.9	—	—	57.3	—	1945	—	88.0	—	—	—	—
1915	—	—	88.1	75.2	—	73.6	1946	—	—	—	—	—	91.1
1916	—	—	—	—	—	—	1947	94.6	93.4	90.7	93.4	85.9	92.2
1917	61.4	54.2	—	—	62.1	—	1948	—	—	—	—	—	—
1918	—	—	80.3	51.9	—	—	1949	—	—	—	—	—	—
1919	—	—	—	—	—	66.1	1950	92.7	94.4	92.5	93.1	91.0	94.5
1920	56.2	63.7	79.9	—	—	—	1951	—	—	—	—	—	—
1921	—	57.3	—	63.8	67.3	63.1	1952	—	93.6	—	—	—	—
1922	70.0	—	—	—	—	—	1953	93.9	—	93.8	95.0	93.5	—
1923	—	—	82.2	—	—	—	1954	—	—	—	—	—	—
1924	—	59.2	—	62.7	62.4	67.3	1955	—	94.0	—	—	—	93.9
1925	69.1	—	—	—	—	—	1956	93.3	—	93.0	93.9	92.2	95.2
1926	—	—	88.7	—	—	—	1957	—	—	94.6	—	—	—
1927	82.5	91.8	—	77.4	73.4	—	1958	—	94.2	—	—	—	—
1928	—	—	—	—	—	81.9	1959	94.0	—	—	93.9	92.4	94.6
1929	—	—	—	—	—	—	1960	—	—	92.5	—	—	—
1930	—	—	89.1	—	—	—	1961	—	94.4	—	—	—	—
1931	94.9	—	—	71.4	74.4	95.0	1962	94.0	—	—	94.0	93.1	—
	—	—	—	—	—	—	1963	—	—	94.3	—	—	—
	—	—	—	—	—	—	1964	—	94.4	—	—	—	95.4

— Introduction of Commonwealth compulsory voting.
 — Introduction of State compulsory voting.

century prior to compulsory voting to 2.2 per cent. for the 13 elections subsequent to its introduction—but the obvious influence is the brief experiment with proportional representation antedating compulsory voting. In four other States the absolute increase in averages is 1 per cent. or less: 0.3 per cent. in Victoria, 0.2 per cent. in Queensland (which retained first-past-the-post voting until 1963), 1.0 per cent. in South Australia and 0.8 per cent. in Western Australia. Only Tasmania shows an increase greater than 1 per cent., 1.6 per cent. to be exact, and this is better seen as a steady rise: 2.2 per cent. informal vote average up to the time proportional representation became State-wide, 3.6 per cent. under non-compulsory P.R. voting and 4.5 per cent. with compulsory voting and P.R. At Commonwealth elections informal voting for House of Representatives seats rises on average only 0.2 per cent. after the introduction of compulsory voting. In Senate voting, however, it rises by 3.2 per cent. and it is this increase which most critics of compulsory voting appear to have in mind. Their case does not survive careful scrutiny of the figures: informal Senate voting prior to compulsion and preferential voting averaged 4.7 per cent., after the introduction of preferential voting but before compulsion (two elections only, admittedly) 9 per cent., and after compulsion with first preferential voting and then proportional representation—both making similar substantial demands on the voter—9 per cent. The rate of informal voting is consistently highest for those elections demanding elaborate selections in multi-member constituencies: Tasmania since 1909, New South Wales briefly, and the Senate. The contribution of compulsory voting to informal voting appears to be slight, and never greater than 1 per cent.

Concerning the second consideration there can be little controversy. (See Tables 3 and 4.) Compulsory voting has certainly increased the total vote by bringing perhaps 15 or 20 per cent. of the electorate to the polls when, to judge from earlier turnout figures, they might not otherwise have voted. Some State returns prior to compulsion indicate that turnout could fall to a very low figure indeed.

TABLE 5^a**Enforcement of Compulsory Voting**

		No. "please explain" notices sent to non-voters	No. penalties imposed and fines paid forthwith	No. cases taken to court
Commonwealth—				
H. Reps.	1963	178,417	4,393	165
Senate	1964	238,535	16,247	487
New South Wales	1965	no records kept		
Victoria	1964	19,783	87	0
Queensland	1963	38,436	378	28
South Australia	1965	14,316	284	31

There is little evidence that compulsory voting is felt to be oppressive by any substantial element of the population. There is a total absence of complaint in the legislatures, and complaints in letters to newspapers are infrequent. Taking the five largest electoral systems, it would appear that substantial numbers of individuals are dealt with, but relatively few are punished (Table 5).

Such survey data as is available provides for further corroboration. Prior to the 1963 State election in Queensland a survey was conducted in three Brisbane electorates (Ashgrove, Barooka and Ithaca); 500 names were drawn at random from the electoral rolls and 348 interviews effected. Respondents were asked:

- a. Some people say that if you're *not* happy about any of the parties or candidates at an election, you should hand in a *blank* ballot paper, or spoil it in some way. Do you think people should do *that*, or *not*?
- b. Why, especially, do you say that?
- c. If voting were *not* compulsory, do you think you'd still bother to vote on election day?

TABLE 6

Readiness to Cast a Blank/Spoiled Ballot

n = 348

Yes	12.6%
No	82.5%
Undecided	4.9%

TABLE 7

Readiness to Vote if not Compulsory

n = 348

Yes	76.1%
No	20.4%
Undecided	3.5%

These figures are supported by an Australian Gallup Poll survey,¹⁰ while a semi-self-selected panel interviewed in Canberra before the 1963 federal election¹¹ produced less prospective abstentionism: would vote 91 per cent., would not 6.7 per cent., don't know 2.2 per cent.—the difference might well be accounted for by the element of self-selection in the Canberra study.

From the arguments advanced against compulsory voting, one would expect that two groups would be susceptible to abstentionism or the substitute which ballot-spoiling provides: those electors who are indifferent between the parties being low on party identification, i.e. their partisanship scores are equal whether the scores be positive, negative or neutral, or doubt that the results of the election matter very much, and those who are low on information (Tables 8, 9, 10).

TABLE 8
Partisanship and Readiness to Spoil and Abstain
(scores range from +7 to -7)

<i>A.L.P. Voters</i>			
	Total group	Prospective spoilers	Prospective abstainers
Score on:			
Labor Party	+3.1	+1.9	+2.6
Liberal Party	-0.5	+1.2	-0.5
Party differential	3.6	0.7	3.1
<i>Liberal Voters</i>			
	Total group	Prospective spoilers	Prospective abstainers
Score on:			
Labor Party	-1.7	-2.0	-1.9
Liberal Party	+4.0	+4.4	+2.9
Party differential	5.7	6.4	4.8

TABLE 9
Importance of Result and Readiness to Spoil and Abstain

	Total group	Prospective spoilers	Prospective abstainers
n	348	43	66
Election results matter:			
A great deal	44.5%	32.6%	30.3%
Little	11.2%	9.3%	12.1%
Hardly any	31.9%	41.8%	36.4%
Can't say/N.A.	12.3%	16.3%	21.2%

TABLE 10
Information Scores and Readiness to Spoil and Abstain

	Total group	Prospective spoilers	Prospective abstainers
n	348	43	66
Information scores:			
0	18.1%	30.2%	28.8%
1	21.0%	23.2%	25.8%
2	21.6%	9.3%	24.2%
3	14.4%	16.3%	13.6%
4	8.8%	4.7%	6.1%
5	11.2%	7.0%	1.5%
6	3.4%	7.0%	0.0%
7	1.7%	2.3%	0.0%
****	****	****	****
Average scores	2.3	2.0	1.5

(The information score was compiled on knowledge of political figures: the maximum score of 7 would indicate correct identification of the name and party of sitting Federal member and Brisbane City Council alderman and of the names of the A.L.P., Liberal and D.L.P. candidates at the current State election.)

In each case, save for the high partisanship of Liberal potential ballot-spoilers, the expectations prove correct, but whilst the results are significant, one may ask whether the differences are sufficient to prove that the opinions of "the negligent and apathetic section of the electors" have been unwisely elicited. Nor are the differences on a scale which could be expected from American studies, e.g. at the 1956 presidential election when 86 per cent. of those who cared very much about the result voted, compared with 76 per cent. of those who cared somewhat, 69 per cent. of those who did not care very much, and 52 per cent. of those who did not care at all.¹²

Some relief against any feeling of oppression is provided by the opportunity to cast an informal vote. How widely this is used can be tested by an examination of the New South Wales State election results, constituency by constituency, since the introduction of compulsory voting. On 148 occasions electors have been confronted with a contest lacking the candidate of one of the two major parties (i.e. the Australian Labor Party and its non-Labor rival, U.A.P.-Liberal or Country Party). In a dozen of these it is impossible to estimate a "normal" vote for the missing party because of long periods of absence from the polls. In the 136 cases remaining, there appeared to be no significant deliberate spoiling on the part of frustrated voters in 73 contests—just over one-half. Often this can be accounted for by the presence of an Independent candidate who was readily acceptable to partisan voters, perhaps even a crypto-party man, although it can be shown from other constituencies that some Independents are definitely unacceptable substitutes. In another 35 cases the proportion deliberately spoiling can be estimated at 10 per cent. of the frustrated or less. Thus, in only one-fifth of the constituencies lacking a major party candidate did more than 10 per cent. of the frustrated group feel sufficiently strongly about the alternatives offered them to spoil their ballot-papers, always supposing that the writer's estimates of "normal" party and informal votes are approximately correct.

These remaining cases fall into three main groups. There are the safe Labor seats, mining or inner urban, which are contested only by a Labor candidate (often left-wing himself) and a Communist or left-wing Independent Labor candidate: Cessnock, Kurri Kurri and Sturt in 1930, Redfern in 1935 when the choice was State Labor or Communist, Bulli in 1941 contested by the A.L.P. and N.S.W. Labor; Bankstown and Leichhardt in 1944 with A.L.P. and Independent Labor, Paddington and Redfern in 1953, Redfern again in 1956, Hartley in 1959. But, it must also be noted, many such contests pass without a noticeable reaction on the part of the small minority of anti-Labor voters, as the record of the Newcastle mining seats shows. The second group involves safe non-Labor seats in which the A.L.P. voter is confronted with two strongly anti-Labor candidates: Hornsby and Lane Cove in 1935 when the U.A.P. was opposed by Campbell's Centre Movement,

Neutral Bay that same year with a right-wing Independent and Woollahra with two U.A.P. candidates only, Hornsby in 1938, and more recently Liberal-D.L.P. contests in Mosman and Vaucluse in 1962 and 1965, and Lane Cove in 1965. The third group consists of more marginal seats which one of the major parties may not be contesting for some special reason: Nepean in 1932, Burwood and Croydon in 1938, Canterbury in 1944, Bankstown, Fairfield and Granville (each contested by A.L.P. and Communist) in 1953. Auburn should perhaps be in a class of its own: successive contests between State Labor and Federal Labor could push up informal voting by potential U.A.P. voters, but they could also sort themselves out quite effectively as in the Lang-Chifley contest of 1935.

In only seven contests does the proportion deliberately spoiling apparently exceed 20 per cent.: Neutral Bay in 1935, Burwood in 1938 and Auburn in 1941 when it appears to have been about 25 per cent., and Kurri Kurri and Sturt in 1930 and Hornsby and Lane Cove in 1935 when it appears to have reached 35 per cent. New South Wales voters do seem to have been able to make a choice when they go to the polls.

Further evidence may be found in the answers given to the second question asked respondents in the Brisbane panel, from which it would appear that there is a general willingness to vote, although a variety of reasons for voting are supplied. The great majority (82.5 per cent.) of voters were opposed to deliberate ballot-spoiling. Their reasons can be sorted into eight classes: (a) 24 per cent. argued that a decision could be reached if an effort was made: the elector "should pick the best of a bad lot", or, more helpfully, "study candidates more carefully" or "people should educate themselves", or, rather vaguely, "should vote for one or the other"; (b) 17 per cent. stated in general terms that there was an obligation to vote, among them 8 per cent. saying that voting was a right or privilege which should be used or not wasted, whilst 4 per cent. expressed general disapproval of spoiling—"not right" or "must vote fair dinkum"; (c) following on this last group, 12 per cent. condemned spoilers as deficient in courage or intelligence or both; (d) 7 per cent. saw voting as an opportunity for the citizen to play a part in government, including several who saw compulsory voting operating to prevent people grumbling about decisions taken and one who saw it preventing government by a minority; (e) 3 per cent. saw that some result was inevitable: "someone has to win"; (f) 11 per cent. believed everyone should have an opinion; (g) 12 per cent. regarded spoiling as a waste of time, sometimes on the assumption that one had to go to the polls in any event; (h) 2 per cent. referred to the fact that the franchise had been fought for. The balance offered miscellaneous answers or gave no answer.

Those who were prepared to see ballot-spoiling did not provide

such a variety of reasons—nor by and large were they so well verbalized, suggesting that slogans about voting were more a part of Australian civic culture than slogans for non-voting. These answers fell into four main groups: (a) if you did not know who to vote for, you should not vote; (b) if you did not care who won, or had no faith in any candidate, you need not vote; (c) a spoiled ballot was a form of “protest”; (d) in general terms, there should be no compulsion: “it’s a free country”.

The contribution of compulsory voting to political education is much harder to assess. Crisp¹³ concludes, rather hesitantly, that the influence has possibly been harmful through “an apparent latter-day decline in party efforts in season and out of season seriously and permanently to convert voters to their general philosophies” and reliance instead on “hectic campaign appeals based usually on a few superficial scares, baits and catchcries”. He wrote before the Liberal Party was converted to what its backroom planners like to call “continuous campaigning”, and the A.L.P. began reluctantly to follow suit. Until Australian civic culture has been properly studied it is impossible to be definite on this point. The present writer’s impression is that the apathetic, uninformed, bottom-of-any-scale element is less numerous in Australia than in, say, Britain or the United States, but this may be attributable in large part to the greater vitality of a working-class sub-culture in the past.

On the fifth and final consideration, however, it must be admitted that compulsory voting has probably had a deleterious effect on party organisation and participation. One recent exercise¹⁴ showed Australian political parties at the bottom of a scale of party expenditure measured as:

$$\frac{\frac{\text{Total Expenditure}}{\text{Number of Votes Cast}}}{\text{Average Hourly Wage of Male Industrial Workers}}$$

TABLE 11
Index of Expenditure

Country	Data year	Index of expenditure
Australia	1958	.45
Britain	1959	.64
Germany	1961	.95
United States	1960	1.12
India	1961	1.25
Japan	1960	1.36
Italy	1958–60	4.50
Philippines	1961	16.00
Israel	1960	20.50

Another¹⁵ estimated barely 1 per cent. of Brisbane electors actively participated in the 1963 State election campaign, whilst American sources report 3 per cent.¹⁶ and 5 per cent.¹⁷ participation.

One function of party organisation is to "inform" or "educate" the public, it being supposed that two flows of biased "information" and "education" will cancel out and leave a worthwhile residue. Indeed, Morris Jones bases much of his case against compulsory voting on this:

. . . Parliamentary democracy is distinguished by its love of trial and its willingness to admit error; it demands expressions of interests which need to be adjusted, and it requires discussions of viewpoints which are to be exchanged and where possible reconciled. Participation and consent may be useful and desirable, but only as aids to a complete and adequate debate.

Where compulsory voting prevails, the parties do not have to produce the volume and intensity of propaganda which is necessary to ensure turnout. Because the campaign can be played *pianissimo* without obvious ill-effect evidenced in turnout figures, much of it may not be heard. There is no need for the large and active branch organisation necessary to operate the canvass and get out the vote on election day. In so far as large and active branch organisations are helpful to internal party democracy and to party communication with the community, Australian political life is the poorer. That is not to say that compulsory voting should be abolished forthwith. It is probable that the dysfunctions of compulsory voting have gone too far. The major parties have reached a state of flabbiness which renders them incapable of coping with the problems of a "free" vote, and any attempt to restore them to ruder health would have to be carefully planned.

We cannot now compare the level of political sophistication, interest or information of Australian voters of one or two generations ago, before the introduction of compulsory voting. It has been argued here that it is unwise to project the attributes of American or British non-voters into a potential sector of the Australian electorate. What we can do is compare the attributes of those who say now that they might not vote with those who say they would and try to decide whether they fall so far short of average or some absolute standard that they should not be voting without raising any question about the wisdom of letting many who come happily to the polls of their own volition vote at all. The differences reported above do not seem sufficient justification for altering a settled policy which has been built into the Australian political system.

part five | FEDERAL INSTITUTIONS

Australian political science cut its teeth on constitutional law and federalism, and until the mid 1950's these parts of the discipline were far better developed than the rest. A series of monographs, symposia and tracts—Canaway's *The Failure of Federalism*,¹ Gordon Greenwood's *Future of Australian Federalism*,² *Studies in the Constitution and Federalism: A Jubilee Study*⁴ come particularly to mind—debated the merits and demerits of federal systems in general and the Australian in particular. Recently Richard H. Leach's *Intergovernmental Relations in Australia*⁵ surveyed a small part of the field of inter-governmental relations, those between the States, but the rapid evolution of Commonwealth-State relations has so far escaped major research.

Fortunately a few of the major federal institutions have been described in articles, five of which are reprinted here. Professor Sawyer characterizes the process of judicial interpretation of the Constitution, the framework within which the Australian federal system subsists. An early article by Professor La Nauze recounts the short and unsuccessful life of "The Inter-State Commission". Mr. Headford and Mr. May describe two more recent creations, the Loan Council and the Grants Commission, still very much with us and of great importance to the States. Mr. Grogan provides an account of one of the several major specialized organs of Commonwealth-State consultation, "The Australian Agricultural Council". Together these articles show how a federal system can develop through constitutional amendment, administrative agreement, and changing custom.

17 | THE RECORD OF JUDICIAL REVIEW

Geoffrey Sawer

It was contemplated from the first that the Australian constitutional system should be subject to judicial review. The arguments urged in the U.S.A. in *Marbury v. Madison*¹ against judicial invalidation of legislative Acts were never urged before any Australian court either before or since federation. Our constitutional structure is a complex of British statutes and of local statutes made under powers conferred by those British statutes. It was probably always sufficient to say that the formal sovereignty of the British Parliament made policing of this constitutional structure by the courts inevitable. Doubtless if any special considerations had been urged after federation, by reference to the fact of Australian national autonomy, they could have been answered not merely by reference to the continuing formal British sovereignty but also by reference to the American example and to the very cogent arguments in favour of judicial review advanced in *Marbury v. Madison* itself.²

A consideration of the record of judicial review of the Australian Constitution must take into account chiefly the work of the High Court of Australia and of the Judicial Committee of the Privy Council. It would be appropriate to consider what these courts have decided not only in relation to the Commonwealth of Australia Constitution Act 1900 (in which the federal structure is embodied), but also in relation to the series of British and local statutes comprising the constitutions of the States. At this Seminar we are chiefly concerned with federalism; for this reason and also for reasons of space I confine myself to the Federal Constitution.

The materials for a comprehensive assessment of the work of the Australian and British courts do not at present exist. Such an assessment would need to take into account doctrinal analysis of the usual legal character, criticism of results in terms of sociological and ethical standards, and a detailed examination of the personal character and actions of each of the individual judges who have taken part in the

relevant decisions and of the “group psychology” (assuming it to exist) of the courts as collectivities. An approach to critical assessment of this kind has been begun in the U.S.A. The work of the courts is not there regarded as in any sense immune from the most merciless analysis and discussion. The almost total absence of a law relating to contempt of court has doubtless contributed to this state of affairs.³ Owing to their unitary Constitution, the English have not needed to embark upon criticism of the judiciary in a similar way, while we Australians who do need such criticism have not in fact embarked on it. Why?

In the debates on the establishing of the High Court,⁴ some of the leading statesmen of the Commonwealth expressed clearly the view that the High Court, in interpreting the broad words of the Constitution from decade to decade and under changing social conditions, would perform a constructive and quasi-legislative function. This was expressed particularly clearly by Alfred Deakin and Senator Harney. Harney said: “I notice that Senator Barrett, by interjection, objected to the word ‘develop’ in this connection. It is for the parliament and not the judges, he thinks, to develop the Constitution. I entirely disagree with him. It shows that he has not grasped the fundamental principle underlying written constitutions, which is that in proportion as the action of parliament in the way of amendment is impeded or excluded, in like proportion the assistance of the jurist in the way of an enlarging construction must be invoked.” There were several, like Senator Barrett, incapable of appreciating the nature of judicial review. Since then, there has been something of a conspiracy between the Bench and the Bar in Australia to maintain the fiction that the judicial function is a mechanical one. At Bar dinners, Law Council conventions and such like festivities, judges and leaders of the profession vie with each other in explaining to the general public that judges are in no way concerned with the wisdom or policy of the laws they administer, and that their sole task is to “discover the law”.

Quotations to the same effect from judgments of the courts could be multiplied indefinitely. The following is an interesting one because of its setting. In *Sickerdick v. Ashton*,⁵ the High Court had to consider whether the defence power enabled the Commonwealth to make laws having extra-territorial effect, so as to control the armed forces when abroad; the question arose only indirectly, since the appellant had been convicted of issuing pacifist propaganda in breach of regulations under the War Precautions Act 1914-16, and claimed that the Act was totally invalid because of extra-territorial provisions not applying to his case. Barton J. said *inter alia*: “We have nothing to say as to the wisdom or otherwise of any regulation: that is a matter for the Legislature. We have said this on many occasions—it may as well be said once more—that any objection to the propriety of any regulation is quite beside the question. This court is not concerned with any such

matters. It is concerned only with the question of legality." Isaacs J., however, considered it proper to include in reasoning dealing with this question of legality the following proposition: "The German ideal is world mastery, and its ideal method of attaining its end is terrorism, inspired by ruthless and cynical disregard of all human rights and sufferings and of national honour." His Honour was doubtless correct in this statement, but the appellant probably considered that the court had not drawn its conclusions from any narrow conception of the matters relevant to "the question of legality".

I must add that not all the judges have expressed themselves in such terms. Some have recognised the creative function of the court. Thus Isaacs J. said in *Commonwealth v. Kreglinger & Fernau Limited*: "As a living co-ordinate branch of the Government" the court "cannot stand still and refuse in interpreting the law to recognise the advancing frontiers of public thought and public activity."⁸ In *Melbourne Corporation v. Commonwealth*, Dixon J., replying to an argument that the doctrine of implied immunity of instrumentalities was political in character, said: "The Constitution is a political instrument. It deals with government and governmental powers. . . . It is not a question whether the considerations are political, for nearly every consideration arising from the Constitution can be so described, but whether they are compelling."⁹ Dixon J. has usually attempted to turn constitutional slogans into reasonably determinate legal rules, not always with the happiest results, but I believe that he has never been a party to the iteration of traditional incantations concerning the nature of the judicial function.

There was a discussion of the general problem at the jubilee Law Council convention in Sydney in 1951; it arose out of the debate as to whether the House of Lords would be likely to decide a certain problem arising out of the common law of negligence in one way or another. The precedents are ambiguous and a number of the speakers considered questions of social morality, practical convenience and so forth. Lord Chancellor Jowitt, one of the distinguished English visitors present, listened to this discussion with lengthening jaw, until finally he could stand it no longer and gave the audience a short lecture on how the House of Lords works, the burden of his remarks being that their Lordships would be concerned only to "discover the law," not to find out what would be a good or a bad law. The audience was suitably repressed, except for Dean Griswold of Harvard University Law School, who was heard to mutter: "That's just what my old granddad used to believe." For the reputation of English legal scholarship, I am glad to say that the Master of the Rolls, Sir Raymond Evershed, whom nobody could accuse of radical tendencies, intervened in a later discussion to say that he dissented from the extreme conservative ("not, of course, in any political sense") view of judicial function expressed by the Lord Chancellor. Sir Raymond

said that there were many circumstances when judges had to pay regard to questions of value. Dean Griswold has suggested that the constructive function of judges is now acknowledged by a majority of the profession in the U.S.A.; my observations there led me to believe that the profession still cultivates the syllogism theory of judgment and that the more enlightened view is confined to the major law schools and the judges of the Federal Circuit Courts of Appeal.

The traditional view on these matters is doubtless due in some degree to simple ignorance or refusal to think. To some extent, it is due to a theory that public confidence in the judiciary requires the maintenance of a general belief in the automatic and impersonal character of judgment. It is thought that the masses will accept the operation of legal control in the community more cheerfully and will exhibit less desire to use their political power in order to influence the composition of the judiciary and the profession, if the general impression remains that personalities have only a minor and incidental influence on the judgments of courts. To some extent, there is a genuine desire on the part of the judges and the legal profession to circumscribe as far as possible the political, economic and ethical element in judgment; this is a worthy desire, though it is questionable whether it is best achieved by encouraging a fiction. Somewhere between the gross political bias which nobody wants, and the mechanical inference, which is impossible, there lies an area of value judgments which are inescapable and should be regarded as legitimate. One of the functions of legal scholarship is to explore this field and to endeavour to establish the sort of value propositions which we can frankly recognise as appropriate in the development of the law generally and of constitutional law in particular. In Australia, we are only just beginning to develop legal scholarship of this standard, and a periodical legal literature above the level of practice notes.⁸

The task of the courts is to ascertain the meaning of the Constitution and apply that meaning to the particular cases that come before them. This simple sentence conceals a multitude of difficulties. The meaning of the relevant words in the Constitution can be affected by syntax, grammar, punctuation and word-usage; by the propositional context; by the historical context; by the sociological context at the time the case arises; by expectations of the context in which the interpretation will in future operate; by the ethical climate; by the atmosphere created at the actual trial as a result of the behaviour of advocates, judges and parties. The "particular case" is a more or less complicated narrative of circumstances leaving room for diverse characterisations of persons, acts and issues. The traditional British theory of judicial function does not allow the courts to recognise frankly that they have to make policy decisions by which the existential situations are brought into a rough relation with the broad generalisations of the constitutional document; hence the judges have had to devise a legal

formula. The formula is that the Constitution is a British Statute, which has to be interpreted in accordance with the established rules of statutory interpretation.⁹ These rules include the general rule that the courts must have regard to the kind of statute they are interpreting; this is a constitutional statute, which must be expected to use words of broad denotation and which should be construed so as to produce a workable system of government.¹⁰ This formula merely introduces sociological evaluation by a back door. Other rules of statutory interpretation, apparently more specific in character, turn out on application to have little more precision, and are readily ignored if inconvenient. For example, take the rule *expressio unius est exclusio alterius* and its variants. There is great conflict between dicta of High Court Justices as to whether this rule should ever be applied to a constitution.¹¹ It was used by the Privy Council in *Webb v. Outrim*¹² to exclude the American implication that the States cannot tax Federal instrumentalities, but was ignored by the High Court majority in *Melbourne Corporation v. Commonwealth*¹³ when the express provision of s. 51 (xiii) was treated as insufficient protection for the States against Commonwealth control of their banking activities.¹⁴

There is a general theory widely held in the U.S.A. that *all* judicial opinions are rationalisations for decisions arrived at on digestive and similar grounds. Without going this far, we can agree that the "ordinary rules of British statutory interpretation" provide far too ambiguous and mutually contradictory guides to construction to provide, except in cases unlikely to reach appellate courts, a convincing explanation of constitutional decisions. As indicated above, the materials for a comprehensive account of what *has* determined judicial attitudes do not exist. In what follows I shall take a few types of cases and indicate possibilities.

Notwithstanding what is said above, there are cases in which ordinary rules of grammar, syntax and logic and a consideration of historical probability lead to a highly probable result. Possibly the number of disputes reaching the higher courts which could be put under this head has been small not only because litigants and even their legal advisers do not care to fight hopeless cases, but also because the courts have denied themselves one source which might sometimes have supplied them with fairly certain answers to questions of the meaning of words. The source in question is the debates of the Federal Conventions which sat in 1891, 1897 and 1898, in which there is a certain amount of contemporary discussion of expressions which were or have since become ambiguous or obscure. It is possible that the lack of reference to this source has been due more to the timorousness of the bar than to any firm exclusion of such material by the courts. The only two discussions of the question of any length occur in 1904, the first year of the High Court's existence, in *Municipal Council of Sydney v. The Commonwealth*¹⁵ and *Tasmania v. The*

Commonwealth and Victoria.¹⁶ The latter case was later by two months only, and the relevant discussions took place during argument. The dicta in the first case would suggest that the debates could be referred to in order to explain the general context of the constitutional expression, while the dicta in the second case suggested that only changes in the wording of the draft Bills could be used and that the debates had to be ignored. The latter ruling has since been treated by the profession as if it were final.

It is important not to over-emphasise the possible consequences of this attitude to the Convention debates. The Founders were much more concerned with political manoeuvring on behalf of their respective States than they were with arriving at a precise understanding of each word in the drafts put before them. To take a typical example, one might have expected the debates to indicate clearly whether the Commonwealth was intended by Sections 81 to 83 of the Constitution to have a general power of expending its money, or whether its appropriation power was intended to extend only to matters more or less directly related to its other legislative, exhaustive and judicial powers.¹⁷ In point of fact, there was some discussion at the 1891 Convention on this question, but the debate on the point lapsed before any clear conclusion was reached and was never renewed.¹⁸ Similarly one might have expected the Convention to discuss whether or not the general American doctrine of implied restrictions on governmental powers thought necessary to preserve the structure of federalism should apply to the Australian draft, having regard to the greater detail of our instrument and the specific provision for some of the matters covered by the American judge-made doctrine. In fact, there was not a single reference to the subject in the whole of the debates, though Sir Robert Garran has told me that he rather thinks that the drafting committee took it for granted that something like the American doctrine would apply. Mention of Sir Robert reminds me that it is sometimes possible, if you are quick enough, to get information about the Convention debates before a court by referring to the excellent summaries of those debates noted to each section of the Constitution in a monumental work written by two comparatively young men before any decisions of the High Court were available; I refer, of course, to Quick and Garran's "Annotated Constitution".

One of the few cases in which what I might call "verbal probability" has been the determining factor is the construction of Section 80 adopted in *R. v. Archdall and Roskrige*.¹⁹ On a first reading, the section might appear intended to guarantee trial by jury in the case of the more serious crimes, and indeed in *R. v. Federal Court of Bankruptcy*, ex parte Lowenstein,²⁰ Dixon and Evatt JJ. indicated lines along which such an interpretation might be reached. However, the prevailing view, adhered to in the latter case by the rest of the Court, that Section 80 performs only the rather trivial function of ensuring

trial by jury *if* the procedure known to lawyers as “indictment” is specified by parliament, seems irresistible on the actual wording of the section. It is one of those cases where a different intention could so easily have been clearly set out that even the most incompetent draftsman could scarcely have failed to give effect to it if so instructed. Of course, speculations of a grammatical or semantic character occur in a great many of the cases, but they have scarcely ever been sufficient on their own to explain the decision arrived at. A particularly elegant example of reasoning based on verbal arrangement is to be found in the joint judgment of Latham, C.J., Dixon, McTiernan and Williams JJ. in *Morgan v. The Commonwealth*,²¹ where the court held that the prohibitions against the giving of preferences contained in Section 99 of the Constitution relate, in so far as they apply to laws of trade and commerce, solely to laws made under Section 51 (i) of the Constitution. The verbal considerations, however, received powerful support from an argument relating wholly to expediency and policy, to the effect that it would be undesirable if the defence power were to be restricted by the sort of inhibition contained in Section 99.

When verbal considerations are not sufficient to determine a question, the attempt to base a decision upon them is at once seen to be pedantic and unworthy of a great constitutional tribunal. I believe there is only one majority judgment in the books which incurs this criticism; it is that in *Le Mesurier v. Connor*,²² invalidating an attempt of the Commonwealth to attach Commonwealth officers to State courts in order to assist the latter to carry out federal judicial functions vested in them. The case also contained some *obiter dicta*, equally pedantic, denying power to the Commonwealth to delegate to the executive the function of vesting federal jurisdiction in State courts. The decision was easily overcome by minor changes in the language of the relevant legislation, but the validity of the *obiter dicta* is still an open question. Dixon J.’s dissenting opinion in *King v. Brislán, ex parte Williams*,²³ in which he denied that the posts and telegraphs power extended to radio broadcasting, is another example of such narrow constructions, surprising in view of His Honour’s usual preference for broad constructions of positive grants of power and his statement in the *Airlines Case*: “It is a Constitution we are interpreting, an instrument of government meant to endure and conferring powers expressed in general propositions wide enough to be capable of flexible application to changing circumstances.”

The proposition last quoted, repeated by the judges many times in various forms, has been a dominant consideration in both High Court and Judicial Committee decisions. The courts cannot of course initiate the measures by which constitutional powers are explored, adapted to changing needs, given new setting or emphasis, at times strained to the limit of the relevant language syndromes. The legislatures initiate, compelled by the various forces which influence

political affairs. The courts come in only when asked to restrain the relevant activity.²⁴ In the many papers published this year on our first fifty years, there is general agreement that judicial interpretation has been for the most part expansive, and has enabled the politicians to bring about larger changes in the balance of the Constitution than those expressly approved by the electors at referenda. This is true not only of the interpretation of powers, but also of the interpretation of prohibitions, with the one exception of Section 92. The practical effect of the expansive attitude has been to increase the strength of the Commonwealth at the expense of the States, since the Constitution operates by way of grant to the Commonwealth. There is no need to examine the general statement at length, since the landmarks in the process, such as the *Builders' Labourers Case*,²⁵ the *Bread Price Case*,²⁶ the *Engineers' Case*,²⁷ the *Goya Henry Cases*,²⁸ the *Uniform Tax Case*,²⁹ and the *Airlines Case*,³⁰ are becoming common knowledge.

It is sometimes said that the Commonwealth's inter-State commerce power has been interpreted more narrowly than the interpretation accorded by the U.S. Supreme Court to the corresponding U.S. section; in particular, the High Court has not adopted the view that a "commingling" of inter-State and intra-State commerce involved Commonwealth power to regulate both. However, the truth is that the economic co-ordination of Australia has not yet produced a situation in which the American principle has been found necessary, and our Constitution gives to the Commonwealth in express terms a good many general powers, not expressly given to the central government by the American document, which the U.S. Supreme Court has had to squeeze under the commerce power. I am prepared to predict that as the economy develops, the courts will expand the federal commerce power; they will not lack dicta from which to draw assurance in doing so.³¹

This prevalence of broad constructions was not achieved immediately nor without dissent. The first three Justices of the High Court drew from their direct historical experience of the movement for federation, from their interpretation of American decisions, and from their political conception of federalism, a technique of interpretation which tended to produce narrow constructions of Commonwealth powers. In the case of Griffith C.J., and Barton J., a strong individualist bias against industrial arbitration was evident in opinions restricting the scope of the industrial arbitration power, though there was also historical justification for this view.³² But the ebullient nationalism of Isaacs and the mordant radicalism of Higgins, operating on other new judges who had no strong political attachments and few memories of the struggle for federation, wrought a great change between 1906 and 1920. Since 1947, there has been some revival of the earlier tendency to draw restrictive rules from a general political

theory of federalism, but the doctrinal consequences of this development have been slight.³³

Instead of dealing with the development of the arbitration, defence and financial powers and other such familiar examples of the expansive interpretations, I shall give two specific examples in lesser known spheres, one of power and the other of restriction. The power example is *Huddart Parker v. Commonwealth*³⁴ which dealt with regulations under the Commonwealth Transport Workers Act 1928-9 providing for the licensing of waterside workers employed on inter-State and overseas ships, and for preference in such employment to the members of a particular trade union. Rich, Dixon and Evatt JJ. held the regulations to be a valid exercise of the Federal commerce power; Gavan Duffy C.J. dissented on a narrow ground relating to the authority conferred on the executive by the particular legislation.³⁵ Starke J. also dissented in a closely reasoned opinion which drew from the context of the commerce power, from American decisions, from Privy Council decisions on the Canadian Constitution, and from an unstated but pretty evident presumption in favour of commercial individualism, a view restricting the commerce power to general regulation of the formal rules governing trade and commerce.³⁶ The majority were in substantial agreement that laws choosing the persons to carry on an essential part of trade and commerce can properly be described as "laws with respect to" such trade and commerce, and therefore answer the description required by Section 51 (i) of the Constitution, and that the industrial policy governing the choice of workers was irrelevant to such characterisation. Rich and Dixon JJ., however, were clearly rather bothered by the policy inspiring the regulation, and sought refuge from its apparent irrelevance to "trade and commerce as such" by drawing distinctions between the "direct" operation of the law—(regulating the employment relations of persons engaged in trade and commerce)—and its "indirect effect"—(advancing the interests of a trade union).³⁷ The opinion of Evatt J. in this case is not completely characteristic; it was not until later that His Honour began to develop the broad sociological approach which is so typical of U.S. Supreme Court decisions since the introduction of the Brandeis brief. But His Honour showed an awareness that there is no magic in the words "with respect to"; his answer to the argument that this was legislation with respect to employment was: True, but the legislation is *also* with respect to trade and commerce.³⁸ He also cited a dissenting opinion of Holmes J. to show that trade union considerations are not foreign to the nature of trade and commerce, but closely relevant.

For an illustration of the treatment of constitutional prohibitions, consider *Elliott v. Commonwealth*,³⁹ in which the Court had to consider another set of regulations made under the Transport Workers Act 1928-29, this time dealing with the licensing of seamen for employment on inter-State ships. The regulations in question applied only to

the ports of Sydney, Newcastle, Melbourne, Brisbane and Adelaide. Thus many ports in New South Wales, Victoria, Queensland and South Australia were omitted, and the regulations did not apply to all in Western Australia and Tasmania. The plaintiff claimed a declaration that the regulations were invalid, because contrary to Section 99 of the Constitution they gave a preference to some States or parts of States over other States or parts of States. Latham C.J., Rich, Starke and McTiernan JJ. held the regulations did not offend against the prohibition, either because they did not give any preference at all, or because they did not give any preference to States or parts of States *as such*, but merely to certain ports because of their local characteristics. Dixon and Evatt JJ. dissented. Latham C.J. considered all the sections of the Constitution which require formal uniformity or absence of discrimination in Commonwealth laws, and by grading their degrees of stringency arrived at the conclusion that Section 99 requires the giving of a benefit in a pretty direct and obvious way. This is a careful piece of semantics. It is backed up by a sensible assumption on which His Honour has acted throughout his judicial career, namely, that the court should as far as possible avoid situations in which it has to pass a value judgment on a statute. Whether a licensing scheme such as this is an advantage to the ports that have it over the ports that have not, or a disadvantage to those ports, is not a question that courts can easily determine, and in this very case the evidence on that question conflicted sharply. Dealing then with the distinction between “locality preference” and “State preference,” His Honour admitted frankly that on his view Section 99 will be almost worthless, since the Commonwealth will always be able to evade it by avoiding reference to States as such in the relevant legislation, but he points out that on any view the section is easily evaded and that a good deal of existing legislation would be invalidated by a stricter rule. The judgment is an admirable blend of traditional legal casuistry and common sense consideration of the practical problems of government. The judgment of Rich J. follows similar lines but is characteristically brief. His Honour mentions one of the techniques by which the courts reserve to themselves a wide discretion in dealing with cases as they arise, namely refusal to embark upon definitions. “It is much easier to say whether a particular thing is or is not a preference than to define the characteristics which a preference must possess.” This sort of empiricism is particularly prevalent in the common law and gives it greater flexibility than might be expected of a system relying so much on authoritative precedents; it also helps to keep leading counsel in the prosperity to which they are accustomed. Starke J. in an even shorter judgment gives a typical display of robust common sense which ignores the difficulties: it is incredible that the Commonwealth should be unable to regulate where conditions require it and leave unregulated where conditions don’t require it, and Section 99 must be read accordingly. This overlooks

the circumstance, pointed out by Dixon J. in his dissent, that the operation of the regulations in no way depended on whether any particular conditions of unrest, etc., existed in the ports prescribed. McTiernan J. stressed the absence of any indication in the regulations whether the ports regulated had been chosen "as parts of States." But the contrast between the dissents is most interesting. Dixon J. considered that an ordered regulation of a branch of commerce must be regarded as an advantage to that commerce, and hence that the ports regulated were preferred to those not. Evatt J. examined at length the political and social character of the regulations, adopted the trade union evaluation of them as "dog collar" regulations intended to discipline the unions and lower the status of their members and concluded that the ports not regulated were preferred. It is unnecessary to go any further into the vast difference between the political assumptions of the dissentients, sufficiently explained by their personal backgrounds. Both dissentients held that the choice of the main ports in the four States regulated amounted to a choice of States as such, a view which seems more in accordance with the probable intention of the Founders than the majority view, but one which would reduce undesirably the freedom of action of the parliament. The ambiguity of the constitutional section, the conflict between the few precedents, and the complexity of the social and political factors, made this a case where the court had a free choice. The majority decision cannot possibly be described as a thorough exploration of the problem, but the result of reducing Section 99 to an almost insignificant restriction on Commonwealth powers is typical.

Behind both the cases just discussed there lay a great deal of politics. The Transport Workers Act was passed by the Bruce-Page Government in order to break the hold of the militant maritime unions on the major ports and on inter-State shipping. The Act was in form a very sweeping delegation of power to the Executive; in upholding this aspect of the legislation, the High Court rejected any general principle of separation between legislative and executive powers.⁴⁰ The Act involved extensive exercise of discretions, and the court dealt with this aspect of the matter on a presumption against wide discretionary power to interfere with the liberty of carrying on ordinary advocations.⁴¹ The Act was used by Conservative governments to fight unions, and by Labor governments to build unions up. There were disputes between the Senate and the House of Representatives, leading to a High Court decision that tended to protect the power of the Houses to disallow regulations, as against an Executive anxious to avoid such disallowance.⁴² Some decisions operated to favour Labor Party policy, others to favour anti-Labor policy. Very little of the politics of the situation is even hinted at in the decisions, yet it seems impossible to believe that the judges were entirely unaffected by the general climate of opinion in which they lived, and as indicated above,

there were certainly judgments of social value in the broadest sense underlying some of the rationalisations in the opinions. Would it be better if the courts brought all these considerations into the open? If the courts won't or can't, is it possible for social scientists to do it after the event?

The one case in which it is generally agreed the courts have not made a good job of constitutional interpretation, on any standard of judgment, is Section 92. Professor Stone, Professor Beasley and myself have recently published papers discussing various aspects of that problem.⁴³ None of these papers go into the doctrinal history of the matter in detail, so I shall give here a summary of that history as I see it. I should, however, warn the reader that there is the greatest divergence of opinion off as well as on the bench even on the comparatively simple matters I shall mention. Section 92 is a political slogan, the reference of which was reasonably clear to the Founders. "Protection" in those days had clear and usually uncomplicated motivations. The courts did not begin to experience difficulties with the section until the first World War, when owing to the very slow assumption of "total war" powers by the Commonwealth, States began to control the flow of foodstuffs. They did so for many reasons, not all of which were apparent in the relevant Acts. There was a genuine desire to aid the war effort by ensuring export of what was needed; there was a less explicit desire to ensure that high prices in States short of wheat, meat, etc., did not result in speculation and denudation of supplies in States with an exportable surplus; there were difficulties in maintaining price control where it was attempted; there was the necessity for keeping farmers in production when shipping shortages made it impossible to export their surpluses in the accustomed manner; there were jealousies and personal hostility between Commonwealth and State Ministers. These and other circumstances would have been relevant to any comprehensive assessment of the Queensland and New South Wales commodity control statutes attacked under Section 92. But such an enquiry would require techniques quite beyond the competence of the courts, including cross-examination of Members of Parliament, Ministers and civil servants. The courts inevitably attempted to develop tests which would enable them to judge the presence or absence of the prohibited protective policy by the terms of the statutes themselves; since such an attempt was bound to fail, or to turn Section 92 into something either more or less far-reaching than the Founders intended, it is not surprising that the relevant decisions should have been in conflict.

The *Wheat Case*⁴⁴ laid down a dogmatic rule that acquisition of goods by governments can never infringe Section 92, but later experience has made it necessary to graft material exceptions on this. In the *New South Wales Meat Case*⁴⁵ a standstill order intended to prevent the movement of stock to other States was held invalid, but in the

*Queensland Meat Case*⁴⁶ this was over-ruled on the ground that the relevant statutes were mainly and genuinely concerned to make meat available for the forces. In this tangle of cases, nearly all the views subsequently developed, from the simplest, (Section 92 invalidates only legislation specially aimed at inter-State trade) to the widest, (Section 92 requires the minimum of legislative interference with private enterprise in inter-State commerce consistent with ordered freedom), were put forward. Isaacs J., who was always happy to adopt theories which would strengthen Commonwealth power and establish national regulation of commerce, then took up a suggestion made by Starke in argument in the second meat case, and in 1920 (*McArthur's Case*⁴⁷) persuaded the rest of the Court to escape all these difficulties by treating Section 92 as binding only the States, and as excluding them completely from the field of inter-State commerce. This could have been worked out as a satisfactory solution, though certainly not contemplated by the Founders. It would, however, have required the Commonwealth to act much more vigorously and promptly than the governments of the day were prepared to act in order to supply the complex laws for inter-State commerce required by the total exclusion of State laws from such transactions. Higgins J. always thought this solution both impracticable and undesirable in the then state of Australian economic development, and it may be doubted whether the doctrine was ever fully understood by any judges except Isaacs and later Dixon JJ. Certainly it was never applied. Exceptions were grafted on to it at the same time as lip service was paid to it.

Unfortunately, the matter first came before the Privy Council in *James v. Cowan*⁴⁸ at a time when the situation was still very fluid. That case on its facts looked very like the penalising of a dried fruits grower solely because he wanted to send his fruit to other States; the High Court held by majority that since the method of acquisition had been used, Section 92 was not infringed. Isaacs J., dissenting, emphasised *both* the discrimination against inter-State trade on the facts *and* the necessary invalidity of *any* State laws affecting inter-State trade, applying the rule in *McArthur's Case*. The Privy Council upheld Isaacs' view in a judgment so ambiguous that it gives adequate support to all the theories since put forward. Some passages emphasise the discriminatory features in the case, others the practical effect (whether "intended" or not) of the legislation on persons in fact engaged in inter-State commerce.

I need not pursue the story further since subsequent decisions of the High Court and the Judicial Committee have merely rung the changes on the two themes: is the legislation in substance aimed against import or export: whatever its substance, does the legislation actually burden individuals engaged in inter-State commerce? As I see it, the innumerable formulæ put forward in the judgments can be classified under

one or other of these general heads. The “substance” or “characterisation” approaches are nearer to the original purpose of Section 92, but they all contain at least implicitly a guess at and judgment upon the motives of the legislature or executive concerned. The “direct effect” approaches escape this difficulty but turn the section into a sort of due process clause, a guarantee of the continued existence of “ordered free enterprise” in inter-State commerce. The *Bank Nationalisation Case* rather supports the latter view, but with so many escape clauses as to leave the High Court sharply divided and the future application of the section quite uncertain. It would have been better if the Judicial Committee, having decided that the Bank appeal was incompetent, had left the matter at that. But as I have tried to show, the basic difficulty has been the sheer impossibility of any court, confined within the ordinary limitations of judicial function, carrying out the range of investigation needed to police a broad political slogan like Section 92.

I excepted only Section 92 from the proposition that the courts have adopted broad constructions of powers and narrow constructions of prohibitions. From the point of view of the States, however, the High Court has also adopted a construction of the expression “excise duties” which is wider than it need have been and may be considered unfortunate. Section 90 of the Constitution prohibits the States from levying excise duties. The first High Court, relying on Australian legislative use of “excise” and on the Court’s historical knowledge of the purpose of the prohibition,⁴⁹ laid down a definition which would have confined the prohibition of taxes imposed directly on the manufacture or production of commodities and measured by reference to the value or volume produced.⁵⁰ After the disappearance of the assumptions on which the first Justices operated, the way was open for “excise” to be given a wider meaning, and the prohibition a correspondingly wider range, so as to include sales taxes and levies to support marketing boards. The history of the cases is traced by Dixon J. in the latest of them—*Parton v. Milk Board*.⁵¹ In my view it is an unfortunate history. The old definition was clear, easily applied and such that the States were left some fields of indirect taxation and consequential fiscal flexibility.

A particularly ironical feature of the decisions on State marketing boards is that they permit withholding of a charge on proceeds by a Board which acquires and sells an output, but do not permit separate imposition of a levy to cover the costs of a Board which merely regulates, except on a flat rate basis which would be unfair to the small grower. Possibly the States have not fully explored the various possible standards for separate levy which might escape the ruling in *Parton’s Case*, but as the decisions stand they tend to encourage the States to adopt outright socialisation of distribution rather than regulative Boards. This is what Victoria has in fact done with metropolitan milk distribution, after its regulative scheme had been held to involve an

excise. In *Mathews v. Chicory Marketing Board*,⁵² Dixon J. suggested that unless the courts adopted a flexible definition of excise, corresponding to the wide use of the term in British legislative history, the States would easily evade the prohibition of Section 90. It is arguable, however, that evasion of Section 90 is a lesser evil than a situation where the States cannot predict with certainty the validity of such imposts and may be forced into more drastic measures of social control than a situation requires. The interpretation of Section 92 is also tending to produce the same kind of undesirable result; at least on one of the "free enterprise" theories of that section, marketing schemes based on acquisition may be valid while those based on regulation may be bad.

I suggest above that the States may not have explored to the full the possibility of evading the broad judicial construction of Section 90; there are doubtless political difficulties in the way of them imposing fresh taxes, as there are in the way of resuming the imposition of State income taxes. Our discussions at the first of these Seminars have suggested to me the following two methods which the States might adopt. First there is the suggestion of Dixon J. in *Parton's Case* that a levy measured by reference to the output of a previous year would not be an excise. With respect, I suggest that this is a thoroughly unsatisfactory doctrine; there is just the same probability in most cases of such a tax directly entering into the purchase price of commodities currently sold as there was in the case of the acreage tax held invalid in the *Chicory Case*. Secondly, there is the possibility suggested by such Canadian decisions as *A. G. British Columbia v. Kingcome Navigation Co.*⁵³ and *Atlantic Smoke Shops v. Conlon*,⁵⁴ that a tax can validly be imposed by States if expressed to be on the consumer in respect of consumption, even though he is required to pay the tax to the retailer and the latter is required to pay to the government. This too is a somewhat unreal device, but the analogy of the Canadian decisions might be sufficiently powerful to support it.⁵⁵

At our previous Seminar on Federalism, Professor Mackintosh made a few trenchant remarks about the poor quality of Privy Council decisions on the Canadian Constitution and the lack of any great sorrow in Canada, even amongst earnest Anglophiles, at the abolition of appeals to the Judicial Committee. The Privy Council had a long, continuous contract with the Canadian problem; cases were numerous, and the sole reason for the trend of the decisions being so unsatisfactory was the lack of first-hand knowledge by most Board members of the history and purposes of Canadian Federation and of the political and economic conditions under which that Constitution worked. The Australian Founders were well aware that the Privy Council had not made a good job of Canadian appeals, and this was one of the main reasons why they sought to exclude the appeal to the Privy Council altogether.⁵⁶ The compromise arrangement arrived at between the

Australian negotiators and Chamberlain in 1900, embodied in Section 74 of the Constitution, was intended to make the High Court normally the final court of appeal on what were considered the most important types of constitutional question. The section has received from the High Court and the Judicial Committee an interpretation which has probably made appeals to London even less frequent than the draftsmen of Section 74 contemplated.

I think it is not unfair to say that lacking *both* frequent experience of Australian problems as represented in cases *and* first-hand knowledge of the country, the Judicial Committee has inevitably made an undistinguished showing in this field. It certainly cannot be said that the Committee has blundered in the same specific sense as it did with Canada. Its anxiety to pay due respect to Australian judges has indeed probably prevented it on some occasions from giving a positive lead which individual members of the Committee were capable of giving. I think that the decision in *James v. Commonwealth*⁵⁷ in particular would have put an end to a good many of the disputes over Section 92, instead of starting a fresh crop of disputes, if Lord Wright had been a little more ruthless in his treatment of doubtful precedents. But it certainly cannot be said that any of the eleven⁵⁸ principal cases on the Federal Constitution decided by the Judicial Committee are entirely satisfactory and some of them are quite disappointing in the standard of their reasoning.

Webb v. Outrim,⁵⁹ the first one of importance, rejected the doctrine of implications from Federalism then being developed by the first High Court, and some of its reasoning entered into the ultimate similar decision of the High Court itself in the *Engineers' Case*.⁶⁰ But parts of the reasoning suggested that the Privy Council had a very imperfect realisation of the meaning of dominion status, even as it existed at that date, and no knowledge of U.S. constitutional law, on which the Australian Founders had drawn heavily. Nobody has yet supplied a satisfactory explanation of what the Board meant by its observations on the incidental power in the *Royal Commissions Case*;⁶¹ incidentally the Board in that case (the only one in which the High Court has given a certificate for appeal under Section 74) failed to answer the specific questions which the High Court had stated for its opinion, and which alone it should have dealt with. Dixon J. has valiantly laboured to extract an intelligible principle from the observations of the Board in the *Builders' Labourers' Case*⁶² on the meaning of the expression "question . . . as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any State" in Section 74; His Honour's own views are clear and easy to apply, but it is very doubtful whether the Board had such a crystalline vision as Dixon J.⁶³ *The Shell Case*⁶⁴ has introduced a conception of judicial power which makes the interpretation of Section 71 of the Constitution needlessly complex.⁶⁵ *Moran's Case*⁶⁶ opens the way for Commonwealth evasion of the

several constitutional sections intended to procure uniformity in taxation, yet fails to establish a clear and simple rule that the grants power can be exercised in entire disregard of the limitations on the taxation power.

The three decisions on Section 92⁶⁷ have failed to establish any certainty in that field, but *James v. Commonwealth* does approach more nearly to a solution than any High Court decision and the Privy Council lost the opportunity of rendering a major service when in the *Bank Nationalisation Case* it elected to distinguish instead of clarifying the reasoning in *James v. Commonwealth*.

The *Nelungaloo Case*⁶⁸ contains a good summary of the dogmatic rules developed in the cases as to the nature of an *inter se* question, but it also has some irritating ambiguities and one egregious error as to the significance of the opinion of Dixon J. in *ex parte Nelson* (supra).⁶⁹ Indeed, the only Privy Council decisions on the Commonwealth Constitution which could be described as completely satisfactory are the first two—*P. & O. v. Kingston*⁷⁰ and *C.S.R. v. Irving*;⁷¹ the latter in particular laid down in very clear terms the difference between “discrimination” and “unfairness of incidence” in relation to taxation statutes. All of the above criticisms are matters of opinion, and in several cases it can at least be said that the Judicial Committee has done no worse than the High Court and that the real trouble has been the inherent difficulty of relevant sections of the Constitution. I think, however, that the abolition of appeals to the Privy Council in 1900 would have made little difference to the course of constitutional interpretation and that the preservation of the appeal is not justified.

In conclusion I wish to mention some points about the procedure by which constitutional litigation is determined. In *Re Judiciary and Navigation Acts*,⁷² the High Court held that the terms of Chapter III of the Constitution preclude the Court from giving “advisory opinions” by reference of the Attorney-General of the question whether a statute is constitutional. Hence the procedure frequently used (and frequently criticised) in Canada for getting prompt decisions on “marginal” legislation is not available here. However, the High Court has greatly facilitated the raising of important constitutional disputes by its liberal attitude to declaration procedures. There is usually little to prevent Commonwealth and State Attorneys-General and parties likely to be affected by legislation from getting the matter before the Courts; there is usually either a State or an individual sufficiently interested in having Federal legislation invalidated, and either the Commonwealth or another State or an individual sufficiently interested in having State legislation invalidated, to provide the basis for a genuine dispute. The method of determining complex major constitutional issues, however, is open to criticism on at least two grounds. Firstly, cases are too frequently determined on demurrer, or on motion for injunction treated as the hearing of an action, so that the facts of the situation are set

before the Court only by affidavit evidence. It might be better if the American rule were followed that whenever possible there should be a trial of facts preceding argument of the constitutional law. This would require greater versatility of leading constitutional counsel than they have hitherto been required to display, but they could rise to the necessity. Secondly, the arguments themselves are usually presented orally. Occasionally counsel put in a written summary of their argument, or of some part of it, but the art of presenting complete arguments in written form is almost unknown in Australia (as of course it is in most British countries). This leads to prolixity, to excessive judicial interjection, to the practice of letting the argument follow the direction suggested by minute-to-minute judicial reactions, and to an excessive emphasis on the personality of the advocate. In my view the procedure in U.S. appellate courts, and particularly in the U.S. Supreme Court, errs in the other direction, by attaching too much importance to the written "brief" and giving insufficient time for discussion between Court and counsel. Some intermediate system would be better, so that counsel would be compelled to work out a systematic, coherent written argument, but so that there would also be adequate opportunity for a true meeting of minds. Perhaps the steady increase in the volume of litigation will eventually compel our courts to introduce a written argument system, but the difficulty of overcrowded lists may well tend to confirm the practice of deciding cases on inadequate and badly presented affidavit evidence.

18 | THE INTER-STATE COMMISSION

J. A. La Nauze

The ancestral voices which prophesied war when “a little bit of layman’s language” was included in Section 92 of the Constitution have been amply justified. The cynic might be tempted to suggest that they have seen to it that they were justified. Our present subject also takes us back to the days when the Fathers of the Constitution met to frame the document which, in Mr. Deakin’s words, made Australia a union, “a union with strong foundations set deep in justice, a union which will endure from age to age, a bulwark against aggression and a perpetual security for the peace, freedom, and progress of the people of Australia, giving to them and their children and to their children’s children through all generations the priceless heritage of a happy and united land.”¹ At the Convention Debates many columns of words were expended on the Inter-State Commission. Now that there is some talk of calling it to life again it is appropriate to inquire into its origins and to examine its brief and rather fruitless existence which

... would seem an after-birth,
Not conceived in the beginning
(For God blessed his work at first
And saw that it was good),
But emerged at the first sinning
When the ground was therefore curst. . . .

In the *Life of George Swinburne*, Mr. Eggleston says “The Constitution was full of safeguards to maintain its federal character; the States did not give up their independence; they surrendered certain powers to central authority; the arrangement of powers could not be altered without their consent and must be interpreted by independent authorities. One of these authorities was the High Court and the other was the Inter-State Commission” (p. 307). It is true that as it was constituted, thirteen years after Federation, the Inter-State Commission was intended to be such an authority in the sphere of trade and commerce; but its inclusion in the Constitution was due to less sublime intentions.

The main reason for setting up such a body was the clash of State interests in the sphere of railway and river transport, an acute question of debate among New South Wales, Victoria and South Australia in the nineties. It is ironical that if the Commission is reconstituted its work will, it seems, be largely concerned with the grievances of States which originally had little or no interest in its creation.

There was considerable argument at the Melbourne Convention as to whether the appointment of the Commission should be mandatory or not. It was on the motion of Mr. Kingston (S.A.) that the words "Parliament may make laws constituting an Inter-State Commission" were struck out and the words "There shall be . . ." substituted. There was difference of opinion regarding the usefulness of such a body. Mr. Dobson (Tas.) said: "I can quite understand that as the Federal spirit and the desire for harmony increases, we shall hardly, if ever, desire to call into play an inter-state commission."² Mr. Reid (N.S.W.) did not agree. "I do not think," he said, "we will ever be in such a position that such a body's services will not be required. In the manifold ramifications of trade and enterprise of all kinds I feel sure that a number of matters are bound to arise."³ He was, of course, right.

In the final version of the Constitution the provisions relating to the Inter-State Commission are included in Sections 101-104. Section 101 states:

There shall be an Inter-State Commission with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

It is provided in Section 102 that the members shall hold office for seven years except in case of misbehaviour or incapacity, and that their remuneration shall not be diminished during their term of office. Sections 102 and 104 refer to their powers in connection with railway rates. The layman could hardly be blamed if he drew the conclusion that an Inter-State Commission should have been established at the beginning of the Commonwealth and should be operating now. In the first Parliament a bill to establish a commission was brought in, but it lapsed at the end of a session. The project was revived in 1909, when an elaborate bill was introduced by the Deakin Government. This was the basis of the Inter-State Commission Act of 1912; but it contained provisions relating to industrial disputes which were probably ultra vires the constitution. It was strongly opposed by the Labour party and it also lapsed.

At the end of the session in 1912 the Attorney-General, Mr. W. M. Hughes, introduced the Inter-State Commission Bill, which, some members complained, was rushed through all stages very quickly. However, it was in principle accepted by both parties. The Bill was

(as Mr. Hughes acknowledged) largely based on Deakin's abortive measure of 1909. In introducing it he said, "Shortly, the functions of the Commission under this Bill are: It will be a standing Commission of Inquiry, with power to investigate on reference by Parliament, or on its own motion, practically all matters knowledge of which is directly necessary to Parliament and the public. It will be a Board of Trade, an independent critic, not only of social, industrial and commercial events but of the operation and administration of laws. . . . It will be an active guardian of the Constitution with power to reach out and deal with violations of the Constitution with respect to trade and commerce."⁴ This formidable infant was welcomed from the other side of the House by Mr. Deakin. "I look upon it," he said, "as the eyes and ears of the Commonwealth Government," and he expressed the hope that "the always abstract, the always vague, the occasionally tortuous expressions of legal procedure will be simplified by its study of facts."⁵ This hope was fervently echoed in the Senate. "I do not see why on the Commission there should be a lawyer," said Senator Stewart. "As a matter of fact, lawyers are probably the worst class of people who could be chosen. Lawyers usually confuse and confound matters."⁶ Several members were quite frank in their views on the composition of this impartial body. "I hope that if the Commission is created it will be of the right fiscal colour," said one. "I will not say that there should not be one free-trader on the Commission, but I sincerely trust that two of the three Commissioners will be strongly convinced that the industries of Australia require to be safeguarded."⁷

The Inter-State Commission Act, set up, or as lawyers afterwards said, purported to set up, a body armed with wide and formidable powers of inquiry into, and adjudication upon, matters affecting trade and commerce within the Commonwealth. It could hear and determine complaints, award damages, inflict heavy fines for disobedience of its order and commit to prison for failure to pay. It could compel witnesses to attend and examine them on oath. Appeals from its decisions could be made to the High Court, but on matters of law only. Specifically its duties were laid down in Part III, Section 16 of the Act. This mentioned a wide range of subjects which the Commission was "charged with the duty of investigating from time to time" if in its opinion the public interest required such investigation. They included production of and trade in commodities; manufactures; markets; tariffs; prices; profits; wages; employment; population; immigration; and any matters referred to the Commission by Parliament.

Owing to a Parliamentary election some time elapsed before the first appointments were made. Mr. Cook was the new Prime Minister. He announced the names of the Commissioners early in August 1913. They were a redoubtable trio, armed with wide knowledge and experience in various spheres of Australian life. The legal member and Chairman was Mr. A. B. Piddington, K.C., whose career needs no

summary. Among his many qualifications was a considerable experience of industrial matters. The Hon. George Swinburne was a leading figure in Victorian politics, who, as Minister for Agriculture and Public Works, had successfully dealt with the difficult question of the Murray Waters. He was a business man of very wide experience. Mr. Lockyer was one of the ablest civil servants in Australia, with considerable experience of taxation and customs. He was at the time Federal Comptroller-General of Customs, and, as it had been announced that the first task of the Commission would be to undertake an inquiry into the tariff, it is interesting to note that "in private life Mr. Lockyer was a keen fisherman, if a man who devotes the whole of his skill to the destruction of sharks can be classed in that category."⁸ The comment of the Adelaide Register on the appointments showed that in some matters the spirit of 1937 is the same as that of 1913. The first words of its sub-leader ran: "Much disappointment will naturally be occasioned in this State by the omission of a South Australian from the personnel of the Inter-State Commission. . . . South Australia will rightly consider that her peculiar position and claims have been treated with scant respect by the Federal Government." It added modestly, "this State . . . is more truly continental and less parochial than either of its neighbours".

At this point a brief summary of the Commission's work will be useful. In 1915 its powers of adjudication were shorn from it by a decision of the High Court. Thereafter it acted in effect as a standing Royal Commission. It performed much valuable investigating work, but its practical influence was for various reasons almost negligible. The work performed by the Commission (whose members also assisted in the Government in other capacities) comprises a very thorough investigation into the Tariff in 1913-14; the hearing of the Wheat Case in 1915, on appeal from which the judicial powers of the Commission were declared to be unconstitutional; an inquiry into new industries in 1915; an inquiry into trade in the South Pacific in 1916; an inquiry into prices in 1917; and several minor investigations.

The most valuable work is probably that done in the Tariff inquiry. The Commissioners were asked to report in particular on industries in urgent need of tariff assistance, anomalies in existing Acts, and "the lessening where consistent with general policy of the costs of the ordinary necessities of life". They proceeded to examine these questions in considerable detail, and heard hundreds of witnesses in hundreds of sittings. The Tariff Reports on particular industries comprise two enormous volumes of the Commonwealth Parliamentary Papers, and include masses of statistics and reports of evidence. Volume is no criterion of quality. But the Commission performed valuable and searching work which was unfortunately too soon forgotten. The type of investigation was entirely new. By 1914 the Tariff was accepted almost without question as "Australia's national

policy". It is significant that the terms of reference of the inquiry were concerned with "the necessity for new or increased duties". The Commissioners, although they were not perhaps fully aware of the less obvious repercussions of tariffs, brought to the investigation wide experience and critical powers which are not always possessed by political defenders of protection. They accepted protection, but not naively. One can imagine their thoughts upon this brilliant little example, *mutatis mutandis*, of a speech before any Tariff Commission:

I cannot go into figures of the cost of local and imported. . . . Ten or fifteen years ago I did five times the business I do now. At first I thought it was ten times, but I really think it was about four times more ten years ago, or perhaps twofold.

I am not aware of our profits for the past three years. I do not know anything about finance. I leave that all to our bookkeeper. I attend to the cutting. . . . We are doing well, but not as well as we should do if we had increased duty.⁹

It did not do to forget the position which the Commission held under the Constitution, as this incident shows:

Witness: I thought you had finished—I am very sorry.

Chairman: Whether it is published in the press is nothing to do with it.

Witness: I really thought you had finished.

Chairman: I had not.

Witness: I am awfully sorry.

Mr. — (speaking from the body of the Court): As a director of the company, may I be allowed to ask a question? . . .

Chairman: Will you please take your seat, sir, I do not know your name.

Witness: He is Mr. —, a director of the Company.

Chairman: (to Mr. —): You are not a witness. Neither a director of a company nor any other person has any right whatever to interrupt the proceedings of this Commission. . . .

Mr. Swinburne: I wish to say—

Chairman: One moment please.

Mr. Swinburne: I should like to say something—

Chairman: With so many interruptions on both sides—

Mr. Swinburne: I have a word to say—I wish to say something—¹⁰

The general report contained a number of pertinent observations on Australian industry which may still be read with profit. "We are competing with countries whose industrial methods are marked by the application of scientific research and knowledge and the close observance of efficiency and the avoidance of waste, whether in power, labour or material, and it is imperative that we should not lag behind in any of these respects." . . . "It is not reasonable that taxes on the community should be increased on the plea of unprofitableness of manufacture unless this plea can be made good by something more than mere assertion." Some notes sound curious to-day. "Fortunately, Australia offers the possibility of unlimited expansion in agricultural,

mining and pastoral industries, for the products of which the world's demand is practically unlimited."¹¹

But on the whole one feels obliged to endorse Mr. Eggleston's words. "In 1914 the tariff conflict was settled in principle and a body of investigators was bound to accept protection and ascertain how it could be made as efficient as possible. If the Commission had sat continuously from that date to the present it would have developed even more skill in penetrating the views put before it, and would as time went on, have become an instrument of great efficiency in correcting the crudities of Parliamentary protection."¹²

It took the Tariff Board, which began the task all over again, nearly ten years to divest itself of the crudest approach to its subject matter.

To the economic historian this investigation is the most valuable part of the Commission's work, although their conclusions do not seem to have convinced Parliament that Protection involved anything else but protection. But the Inter-State Commission was intended to be much more than an inquiring body. The great powers of investigation and capacity to enforce decisions in matters relating to trade and commerce were meant to be used. That the Commission for the greater part of its life was little more than a standing Royal Commission was due to a decision of the High Court in 1915 in what became known as the Wheat Case. Under a war-time Act the State of New South Wales compulsorily acquired the wheat crop at a fixed price. A farmer had contracted to sell part of his crop inter-state; it was seized by the Government; and a complaint was made to the Inter-State Commission that this action violated Section 92 of the Constitution. The Commission rejected the contention advanced on behalf of the Government of New South Wales that it had no jurisdiction to hear the case; and held by a majority (the Chief Commissioner dissenting) that the Wheat Acquisition Act infringed Section 92, and was, therefore, invalid. An appeal on questions of law was made to the High Court and *inter alia* the Court was asked to decide whether the Commission had "jurisdiction to hear and determine the petition, to grant the injunction or to make the order for costs". It was held by Griffith, C.J., and Isaacs, Powers, and Rich, J.J. (Barton and Gavan Duffy, J.J., dissenting), that Section 101 of the Constitution did not authorise the Parliament of the Commonwealth to constitute the Inter-State Commission a Court, nor to give it judicial powers nor to confer upon it the general power to restrain contraventions of Inter-State trading rights, and that, therefore, as the provisions of Part V. of the Inter-State Commission Act, 1912, were ultra vires the Parliament of the Commonwealth, the Inter-State Commission had no power to deal with the complaint.

This judgment is a matter of considerable interest both historically and in regard to the question of what form a reconstituted Inter-State Commission is likely to take. The majority judgment depended on an

interpretation of the word “adjudication”, and its distinction from “judicial” powers which, it was held, were vested solely in the High Court and such other Courts as Parliament might create, but of which the Inter-State Commission could not be held to be one. A layman can hardly criticise the judgment. The comment of Mr. Eggleston, a lawyer, is that it “defied the known intention of the framers of the Constitution and resembles very much the action by which some mediæval court of law endeavoured to stultify a rival court”. It is true that the High Court is debarred from using the Convention debates as a guide to the interpretation of the constitution. In this case, for some at least of the majority judges, it was just as well, as these debates would certainly have made them feel uncomfortable. In the Second Report of the Commission the judgment is commented upon. An impressive series of quotations from the Convention debates is given, and a layman’s impression, after reading these and their context in the original, is that the Commissioners are justified in saying that “every member of the Convention who described the powers of the Commission, including the members of the Drafting Committee who spoke, considered that the Inter-State Commission was to discharge just such judicial duties as are laid upon it by the present Act”.¹³

The Commission now became merely a body of inquiry without any power of enforcing its decisions. In its subsequent annual reports it repeatedly drew attention to the crippling effect upon its activities of this loss of judicial powers, but to no avail. It was announced towards the end of its term that the Government would introduce legislation to remedy the position (how, is not quite clear) but this was not done before the Commission’s term ended. The Commission itself suggested two methods of remedy: (i) that a court with powers similar to its own should be created under the Judicature Chapter of the Constitution; but this probably involved conferring life-tenure on its members; (ii) an amendment of the Constitution. Mr. Eggleston says, “Possibly it was a mistake of the Inter-State Commission Act to make it a court and derive the validity of any of its actions from that fact; if the Commission itself were given specifically and in detail, the powers of adjudication and administration which were necessary to protect the provisions as to inter-state commerce, it is difficult to see how they could be held invalid.”¹⁴

In the remaining years of its life the commission conducted several extensive inquiries, but like most inquiries, their results were not very significant. Its members were increasingly engaged on other administrative work in connection with the war. One permanent result of the utmost importance sprang from the Report on New Industries presented in November, 1916. In previous tariff reports reference had been made to the lack of knowledge of scientific processes in Australian industry. Here an explicit recommendation was made:

“ . . . while the Commonwealth encourages industry by Tariff Taxation and by bounties, it has no recognised organ for the discovery of new methods of using local products or for diffusing a knowledge of scientific processes amongst our producers and manufacturers . . . a Commonwealth Department, operating upon the problems of secondary as well as primary industry, might well be constituted with a view to the systematic application of science to Australian industry.”¹⁵

The suggestion was taken up by the Government and a Council for Science and Industry was formed. The Chairman of the Inter-State Commission became a member of the executive. This temporary body was later transformed into the permanent Council for Scientific and Industrial Research.

In 1916, an inquiry was made into the future of British and Australian trade in the South Pacific. The report is an able and interesting document, accompanied by a mass of evidence. It is now completely forgotten.

An inquiry into the cause of increased prices, particularly of food-stuffs, followed in 1917. In view of the heavy fog which hangs over government finance in war time, it is perhaps not surprising that while the Commissioners found a number of reasons such as drought, crop failures, higher costs, higher wages and so on, for increased prices, the thought that the effects of war-time finance on the monetary system might be a factor does not seem to have struck them very forcibly.

Mr. Swinburne, who was heavily encumbered with other duties and who considered that the Commission lost much of its usefulness following the High Court judgment, resigned in 1918. It is possible that at the end of its term the Government considered that the Commission was serving no very useful purpose, although it had previously announced its intention of bringing in a new Inter-State Commission Bill to remedy the loss of powers. The Chief Commissioner had been serving as Chairman of a Royal Commission on the Basic Wage, which reported in 1920 that the wage required for reasonable standards of comfort for man, wife and two children was £5/16/- per week. The Harvester equivalent at the time was not much above £4/-/-, so that the report was very embarrassing to the Government. At any rate the terms of appointment of the remaining members of the Inter-State Commission lapsed in 1920, and no new appointments were made.

There is no doubt that when the Commission was set up it was anticipated that it would play a most important part in the constitutional machinery of Australia. It had wide powers, and its members were men of great ability and experience. Yet, despite some valuable inquiry work, useful to the economic historian, its record is almost fruitless, and it is doubtful whether many people, except lawyers and others interested in the constitutional question, remember its existence.

Several factors contributed to this result. First, no doubt, we must place the loss of its judicial powers. This undoubtedly circumscribed the sphere of its activities, and there is no means of telling what questions might have come before it if its original powers had continued undiminished. But quite probably, in any case, it would not have had, in this period, a great amount of work to do. For it was war-time and the ever-present State and Federal friction had, to a large extent, ceased during the emergency. In other times more public and parliamentary feeling might have been aroused by its relegation to a body of inquiry.

There has been some talk lately of reconstituting the Commission. What work would such a body be engaged upon? It is clear that its main work, for some time to come, would be concerned with a wider sphere than trade and commerce. For the grievances which an Inter-State investigating body would examine are those general ones, real or alleged, arising out of Federation. Western Australia and Tasmania, which originally thought that the Inter-State Commission concerned them little or not at all, would now be the first to invite attention. The kind of investigation which the original Commission undertook into the tariff is now done by the Tariff Board. The Grants Commission's functions—for which there will presumably be necessity for some time to come—might be taken over by an Inter-State Commission, though such a function was never contemplated for the Inter-State Commission, either of the Constitution or of the Act of 1912, and the Grants Commission, in fact, operates under Section 96. The Inter-State Commission would, however, need to have a wider scope than the Grants Commission whose recommendations are regularly assailed by the political leaders of the aggrieved States, and whose establishment has done little to change the situation which Professor Hancock regarded with some foreboding in 1930. "The aggrieved States," he wrote, "are encouraged to believe that it pays them to weep and bully. The other States are prone to suspect their poor relations of blackmail and bribery. There is an urgent need to re-establish the Inter-State Commission or else to set up some other body fit to act in this matter as 'the eyes and ears of Parliament'. Otherwise, Federal politics must become deeply infected with cynicism. Democracies, when they are enthusiastic, are often glorious and sometimes dangerous; when they become cynical they are repulsive."¹⁶ Certainly, in 1936, the continual battles of *State v. Commonwealth* and *State v. State*, whether it is a matter of tariffs, grants, aeroplane factories, secondary industry or organised marketing are, to some observers, becoming repulsive. Whether the existence of a powerful Inter-State Commission would help to end the strife is not a matter on which any very useful judgment can be formed.

The constitution of such a body would present some difficulty, unless it is to be a mere commission to inquire and make recommenda-

tions. So would the question of its relationship to Parliament. Recent history has shown that moral and, to an ordinary reading, legal obligations to consult a body set up by Parliament (the Tariff Board) may be brushed aside under a plea of national policy. An Inter-State Commission would be of little use if its fate were to have its recommendations ignored or its existence forgotten when it suited the Government of the day.

The author wishes to remind readers of the original date of this article (1937), the first he ever wrote; to stress that it must be read "E. & O.E."; and to suggest that the subject is worth pursuing further, perhaps in a Master's thesis.

19 | THE AUSTRALIAN LOAN COUNCIL— ITS ORIGIN, OPERATION AND SIGNIFICANCE IN THE FEDERAL STRUCTURE

C. G. Headford

It has been claimed that the “financial relations between the component States and a Federal Government . . . are the chief determinants of the character of the Federation”.¹ The claim is wide, but it is not surprising, as the power of the purse is the main means of power: the main means of gaining control over men and materials; of translating ideas and desires into action; of promoting and realising interests.

In Australia, public borrowing has played an unusually prominent part in federal finance and has led to a notable experiment in the creation of a constitutional hybrid—the Loan Council. This significant role of governmental borrowing is largely due to the fact that the economic exploitation of undeveloped natural resources, including the provision of adequate communications, has been undertaken more than in any other federation by public rather than by private enterprise.²

There are three major questions to be decided, and each gives rise to the likelihood of conflict. Firstly, which of the various public projects competing for the expenditure of loan money should be selected? Secondly, what total amount should be borrowed? Thirdly, what share should each government receive of the total? The full significance of the second of these questions has only recently emerged with the assumption by the Commonwealth Government of responsibility for regulating the level of economic activity in Australia, and, specifically, for maintaining “full employment”. This shift in emphasis has made it more necessary than ever to investigate the role of the Loan Council—to see why it was created, how successful it has been, and whether it still aids governments in meeting the “felt needs of the time”.

This unique institution—the model of innovation in the sphere of public borrowing—has many unusual features, not the least of them being the secrecy of its operations. Her Majesty's Opposition meets a consistent refusal in attempts to obtain information; yet it is possible to attempt to piece together its story from a variety of sources.

Because of the close interrelation between revenue resources and the need to borrow, the general financial framework established by the Constitution in 1901 is important. The framers of the Constitution "left the settlement of the financial scheme very largely to the future. They admitted that it was quite an impossible task for them to lay down the whole financial basis of the Commonwealth. They made provisional arrangements for temporary periods, and . . . left the rest almost entirely, if not quite entirely, to the discretion of the Parliament."³ The crux of their problem was that customs and excise duties were necessarily granted exclusively to the Federal government, yet these had been the chief sources of State revenues prior to Federation. The States' annual interest liability was alone greater than the revenue they were accustomed to raise, or were likely to raise, by direct taxes.⁴ This inherent pattern of financial power was not fully realised by either the Commonwealth or the States at the time and has only gradually unfolded. Yet it has profoundly affected the character of the Federation, and has been of basic importance in determining the power structure of the Australian Loan Council.

By section 105 of the Constitution, the Commonwealth was empowered to take over the States' debts existing at federation, and in 1910 the electors approved an alteration to that section which permitted the taking over of all State debts, whether incurred before or after federation. In fact, no attempt was made to use this power until the Constitution was again amended in 1928.⁵

Until 1911 the Commonwealth met capital expenditure out of revenue. In that year a Loan Fund was created, but it was not until 1914 that the Commonwealth entered the public loan market.⁶ The first world war wrought a big change in the financial positions of the Commonwealth and the States. The former entered new (concurrent) fields of taxation to finance war expenditure and incurred a large war debt. The problem of repayment of this debt, superimposed upon State borrowings, was basically the cause of the creation of the Loan Council. During the war the Commonwealth Government entered into an agreement with the States other than New South Wales under which all loans in London were to be raised by the Commonwealth.⁷ This continued from 1915 till 1919, when the parties reverted to independent arrangement of their loans. After 1920, the States were competing with one another on the loan market in London, and co-ordination of borrowing was badly needed.⁸

By 1923 the first of the internal war loans raised by the Common-

wealth became due.⁹ When arranging for the large conversion required, "Commonwealth Ministers could not get the States wholly off the market while the operation was in progress. In the long run, such a state of affairs could not fail to bring disaster."¹⁰ As early as March, 1923, the Prime Minister had pointed out that because of the loans and conversions required up to 1930, the credit of Australia should be placed upon the very best possible basis. In the interests of Australia as a whole, the "best policy . . . would be to have one borrowing authority". Further points requiring united action (he claimed) were the needs for uniform sinking funds and for some uniform basis of taxation on loans—the States exempted, but the Commonwealth did not exempt government loans from taxes.¹¹

As a result of a conference called by the Commonwealth, the States agreed to constitute the Australian Loan Council in May, 1923, to act in an advisory capacity to co-ordinate internal borrowing and to stop competition for loans. At meetings of the Council in June and July, 1924, "a unanimous desire was expressed to limit borrowing. The Treasurers placed the Loan Council's proposals before their respective Cabinets, and all the governments accepted the Council's recommendation for a reduction of their contemplated loan programmes".¹²

The following year the Council decided to extend this arrangement to all overseas borrowing.¹³ With the advent of Mr. Lang as Premier of New South Wales, that State withdrew from the Council. He gave two reasons. Firstly, because they were under-written, one large concerted loan would be dearer than small raisings by individual States, and secondly, because New South Wales had not experienced any difficulty in arranging conversions or new loans.¹⁴ A more fundamental reason, and one that coloured his whole approach to the Loan Council, was the fear that it would be an instrument of Federal domination.¹⁵

About this time, oversea borrowing became more difficult. Britain's return to gold in 1925 meant that obstacles were placed in the way of lending abroad, and it also meant higher interest rates and dearer money for Australia. In addition, because of the privileged position held by Australian Government bonds as trust securities in the British market, a great deal of criticism was directed against Australian loan policies.¹⁶

During 1925 a loan of £20 million was placed in New York by the Commonwealth because London could not raise the amount required immediately and a sinking fund was insisted on as being part of the contract for loans raised there.¹⁷ The weakening of Australian credit was shown by the fact that loans raised by the Commonwealth as well as the States were "rated lower than those of other British dominions with less natural resources and potential wealth".¹⁸ At this time the whole question of loan policy was arousing considerable interest in

Australia and there existed "a very general feeling that the increase in the debt has been out of proportion to the growth of development".¹⁹

The operation of the Council over this period had been along non-party lines and was smoothly co-operative apart from the withdrawal of New South Wales because of the personal convictions of Mr. Lang.²⁰ Nevertheless circumstances were assisting or perhaps engendering a feeling that the Council needed more authority.

It remains to be shown how the Loan Council became part of the Financial Agreement of 1927. In 1926 the question of control of public borrowing and the taking over of State debts was linked with the more general question of the financial relations of the Commonwealth and the States, and the suggestion was seized as a possible compromise solution of an intractable problem.

Negotiations had taken place intermittently over the whole of the period subsequent to federation in attempts to arrive at some basis for regulating future financial relations.²¹ A stumbling block in various attempts to reallocate tax fields was the States' insistence that they were morally entitled to a share of customs and excise revenues, and that this was a condition of their consent to federation in 1901. A more compelling reason for the States' resistance is clearly brought out in a statement by a Premier rejecting a scheme proposed by the Commonwealth. Under the scheme it was claimed that "the States would be in the position of an Aunt Sally, for every income taxpayer to have a shot at," and that the States would have to impose "all the odious direct taxation while the Commonwealth will be freed from such an obligation".²²

Several important points were made in a debate in the House of Representatives of July, 1926, which had a direct bearing on the Financial Agreement of 1927 and on the place of the Loan Council in that agreement. It was argued that the right to a share of customs revenue was a condition of federation, "the alternative being that their [the States'] debts would be taken over by the Commonwealth". This subject had not been mentioned at either of the 1923 or 1926 conferences. The suggestion was made that the per capita proposals be linked with a constitutional amendment to gain Commonwealth control of State debts. The Treasurer argued that it would be "impossible without constitutional alterations, for the Commonwealth to control State borrowing, and unless some binding agreement on that is arrived at, how could we deal satisfactorily with the transfer of State debts"?²³

These suggestions were incorporated by the Commonwealth in a scheme submitted to a conference in June, 1927. The proposal was to take over existing State debts; to establish the Loan Council as a statutory body with defined powers to determine the amount and terms for future governmental borrowing; to pay interest on State debts equivalent to the per capita payment for 1926-27; to establish

sinking funds to redeem existing debts within fifty-eight years and future debts within fifty-three years, the Commonwealth making a contribution to these sinking funds; and to pay interest at 5 per cent. per annum on the value of properties transferred to the Commonwealth under section 85 of the Constitution.

The Premiers' reactions to the scheme were generally favourable, although Mr. Lang of New South Wales and Mr. Collier of Western Australia were dubious about surrendering their power to borrow to the Loan Council.²⁴ However, Mr. Lyons (Tasmania) pointed out that "it is my experience . . . on the Loan Council . . . that there has been no antagonism between the States, or between the Commonwealth and the State representatives". Mr. Collier agreed that if "I were sure that the proposed Council would work as smoothly as the one now in existence, I would have no objection to offer".²⁵ Conflicts, it was claimed, could only arise when the amount of money said to be available for the Commonwealth and the States, was less than was considered necessary, and a formula for resolving such conflicts was set out.²⁶ The Prime Minister insisted that there would be no interference with sovereign rights by the Council. "All it could do would be to lay down the rate at which money is to be obtained by a first-class borrower."²⁷ After a number of modifications²⁸ the scheme was accepted subject to ratification by the various Parliaments.²⁹ Ultimately it was, in effect, written into the Constitution by the approval at the subsequent referendum of the insertion of S.105A in the Constitution.

The origin of the Australian Loan Council can, then, be attributed mainly to the peculiar historical circumstances of Australian conditions, particularly the tradition of government action. Difficulties in raising and converting internal loans and the desire for cheaper rates led to the creation of a voluntary council which worked smoothly. Criticism of Australian loans abroad and the insistence on sinking funds led to the extension of its operations to cover overseas loans. Some years of experience, the absence of New South Wales, and the need (voiced by many) for some restriction of borrowing, all led to a desire to make the Council a permanent, fully representative body. The opportunity to realise this desire arose as part of a compromise solution of the perennial wrangle over the financial problem at Premiers' Conferences.

As a result, a new unit of government was created by the Financial Agreement of 1927 to co-ordinate public borrowings of the Commonwealth and the States. A brief description of its formal structure may be useful. It consists of the Prime Minister of the Commonwealth as Chairman and the Premier of each State, or his nominee. Each government submits annually a loan programme for the following year, including any revenue deficit to be funded. Loans for defence purposes are not subject to Council supervision. If the Council decides

that the total of the loan programmes cannot be raised at reasonable rates of interest and conditions (the latter being determined by the Council), it then decides the amount which shall be borrowed. Each of these decisions is by *majority* vote in which the Commonwealth has two votes and a casting vote, and each State one vote. It may then, by *unanimous* decision, allocate that amount between the members. Failing a unanimous decision, the Commonwealth is entitled to one-fifth of the total, and each State to a proportion of the remainder.⁸⁰ The Commonwealth acts as the executive agency for the Council for the purpose of borrowing and enforcing its decisions.

Although the Commonwealth does not appear to have considered that it could use the Loan Council as a means to ensure that “injudicious” borrowing did not take place,⁸¹ the formula for resolving conflicts was designed to act as a deterrent to any State that might seek in any one year to make unduly large increases in its loan programme.⁸² One by-product of this has been to promote conflicts between States as to their relative shares of the total loan funds.

Events of the depression years stretched the passions and the ingenuity of men, and under these conditions the Loan Council assumed an increasing importance. At its first meeting as constituted under the Financial Agreement, the Council was faced with the problem of the drying up of loan funds,⁸³ and the members “had the advantage of a discussion with the Chairman of the Commonwealth Bank Board (Sir Robert Gibson) and the Governor of the Commonwealth Bank (Mr. E. C. Riddle) regarding the financial position”.⁸⁴ This change in emphasis of the function of the council gradually grew more marked. From the time of the visit of Sir Otto Niemeyer the real centre of political interest was in the Premiers’ Conference and the Loan Council rather than in any of the Parliaments.⁸⁵ The Council decided to reduce loan works, to mobilise London exchange, and to adopt the principle of balancing budgets. A sub-committee co-opted economists and Under-Treasurers who produced a report which was the basis of the Premiers’ Plan. In this manner the Council afforded the means by which common problems could be aired and a national approach considered and even enforced—as the Premier of New South Wales was to learn to his cost. Mr. Lang attempted to pursue an independent financial policy, but after a rather dramatic struggle he found that his independence had been severely restricted by the Financial Agreement and his failure to meet interest payments led to the passing of the Financial Agreement Enforcement Acts which finally led to his dismissal.⁸⁶

Attitudes of the various governments towards loan expenditure gradually changed. Up to 1935 Victoria and South Australia showed a strong deflationary bent, while New South Wales and Queensland showed an opposite tendency. Labour governments gained power in

Western Australia and Tasmania and this favoured a move for expansion in government finance. More important was the feeling of the Commonwealth Government that, faced with a general election and with 20 per cent. of unemployment, there was a need for positive action, and in the 1934 Federal elections Mr. Lyons finally turned to the course of increased loan expenditure.³⁷

The experiences of the depression years and the slow recovery during the 1930's illustrate the importance for public borrowing of the superior financial position of the Commonwealth under the Constitution. From 1931-1932 till the second World War, the Commonwealth was in surplus and the States in deficit on their budgets for all years but one. The Commonwealth was able to use its revenue surplus for capital works, whereas the States were obliged to go to the Loan Council to borrow for public works, unemployment relief, and revenue deficits. The market was usually unable to satisfy the demands made on it, and whether sufficient funds were raised to meet the amount agreed upon by the Council, was to a significant extent, dependent upon action by the central bank.³⁸ The events of the post-war years are even more striking as illustrations of the effects of the division of powers and resources, and the issues arising will be considered later.

Firstly, the effect of the formula on different States will be considered. At the May, 1935 meeting, the possibility of applying the formula arose for the first time, and showed that New South Wales would have received more than it wanted, while Victoria would have received very much less than she claimed.³⁹ The Premier of Victoria in June, 1935, claimed that a new formula was required as his Government wanted to apply a new approach to loan spending. Because Victoria's loan expenditure in the past five years had been "exceedingly moderate", its formula allocation was low.⁴⁰ His need was urgent as he depended for his continuation in office on the amount he obtained from the Loan Council. If he did not obtain sufficient to carry out relief works at award rates the Labour party keeping him in office would withdraw its support.⁴¹ In 1939 and 1951 Victoria and New South Wales again clashed, and it is clear that a State may be restricted in its works programme for a particular year and over a period because of previous low yearly expenditure from loan funds.

Another source of inter-state conflict and at the same time an illustration of gradual co-operation under the pressure of events, is provided by the problem of semi-governmental borrowing. As early as 1925 the voluntary Council agreed to the principle that as far as practicable the requirements of semi-governmental bodies should be arranged so as not to interfere with the loan raisings of the Commonwealth and the States. The Treasurers agreed to exercise supervision in accordance with this decision.⁴² In 1929 they agreed to advise the

Council from time to time of the programme of all such bodies under their control for each financial year in order to stop competition for loan moneys and to prevent issues clashing.⁴³ In 1934 a borrowing board was created by New South Wales for the relief of unemployment and, although not legally necessary, the Premier obtained Council approval for its loan raising.⁴⁴ In 1936 a "Gentlemen's Agreement" provided for "the submission of annual loan programmes in respect of semi-governmental authorities proposing to raise £100,000 or more in a year, for the consideration of such programmes in conjunction with the loan programme of the Government concerned, and for the fixing of the terms of individual semi-governmental loans coming within the scope of the annual programme".⁴⁵

At various times protests were raised, by the smaller States particularly, against the relatively large semi-governmental spending of New South Wales and Victoria. In 1938 one Premier declared that he had now learned that the manner in which to finance State public works was by the establishment of semi-governmental authorities.⁴⁶ When he went back to his State he intended to profit by the lesson and establish more of those authorities. The following year the Prime Minister announced that it had been decided "for the first time in the history of the Loan Council, that semi-governmental borrowings should be determined in advance and in conjunction with other borrowing plans. This made for a much greater degree of co-ordination in public borrowing than could otherwise be possible".⁴⁷ Though not legally binding, this arrangement would tend to offset the rise in creation of semi-governmental bodies as a means of avoiding Loan Council control.

During the period of preparation for the second World War and during the war, the Loan Council provided a convenient instrument in meeting the needs of the time. As Sir Bertram Stevens recognised, "We are faced with . . . problems which no single Government can deal with alone. Co-operation and decisive action through a developed Loan Council may be a solution."⁴⁸

Following the outbreak of war, a Works Co-ordinator was appointed to examine and report upon the works projects embodied in the works programmes submitted by each Government.⁴⁹ By this means, through the Council, the necessary co-operation of the States was achieved—first, to mobilise the resources of the country for full employment in the war effort, and later to limit the inflationary effects of loan spending by restricting the amounts to be borrowed and also to concentrate resources on defence works. At its shortest meeting on record, the Loan Council in 1943 gave effect in entirety to recommendations by the Co-ordinator-General of Public Works.⁵⁰

At the Premiers' Conference on 14th July, 1943, a further important step was taken. A National Works Council (consisting of the State

Premiers and the Prime Minister) was formed on the initiative of the Commonwealth Government. As part of its plan for post-war reconstruction and for continued full employment, it suggested that there "should be a national 'public works' policy directed to improving the welfare of the community and timed to correct deficiencies in private spending. When private enterprise fails to employ all available workers, the Government must step in and ensure their employment".⁵¹ In consultation with the States and based on plans for works prepared by them, the Co-ordinator-General of Public Works prepared a programme of urgent and immediately required post-war works. From this list the Loan Council each year approves funds for immediate works, while new plans are added to the reserve and others brought up to date each year.

In this way a new flexibility was attempted as a foil to the rigidities of the system in this field. It appeared possible that, as Hancock expressed it in 1928, the "needs of the Australian people may, perhaps, find satisfaction, without any radical amendment of the Constitution, merely by a shifting of political gravity and emphasis, by indirect pressure of the central authority, by co-operation and inter-penetration and the creation of intermediate organisations between the various centres of activity".⁵² But signs were not wanting that this way was fraught with frustration, and the events of the post-war years may be interpreted as indicating that this way may not stand up to the forces at work in the modern world in times when a war no longer provides a focus for all interests into one predominant aim.

In 1944 the Co-ordinator stated that there had been "some difficulty in ensuring a uniform approach in allocation of priorities".⁵³ He noted a tendency for Governments to concentrate an unduly large proportion of work in the highest priority classification,⁵⁴ and feared that it was hard to maintain a just balance. Having no power to see that his scale of values is adhered to by the States, the function of the Co-ordinator has, since the end of the war, become merely that of collating the programmes forwarded by the various State Co-ordinators of Works for presentation to the Loan Council. The Commonwealth, therefore, again has no direct influence on the particular projects on which a State's loan funds are spent. The amount of its indirect influence may be gauged from subsequent events.

Until 1950 the post-war boom provided plenty of cheap money and loan requirements were satisfied by the market, with the Federal Government mainly financing its works out of revenue. In the subsequent period of marked inflation, however, people and institutions shied clear of low-yielding Commonwealth bonds with the attendant risk of capital loss, and at the meeting of the Council in August, 1950, the States were warned that their works programmes were tending to outrun the loan market. A special meeting was called in June, 1951,

and the position put to the States that their works would have to be cut, as loan money was not available in previous quantities.⁵⁵ In August, 1951, the States put forward loan programmes totalling £293 million plus semi-governmental works of £82 million.⁵⁶ As they were aware, the most that could be expected from the market in that year was about £125 million.⁵⁷

The Commonwealth Government was in a dilemma. It was anxious in its 1951-52 budget to counter inflationary forces and to reduce public works spending⁵⁸ but if the States were left to carry out work programmes with the small amount that would be raised on the market, it was apparent that there would be serious dislocations, especially as rising costs reduced the effective use of such loans. The Commonwealth, which alone controls other flexible sources of money, bowed to the pressure of circumstances and the Premiers, and agreed, for the first time, to under-write State Government loan programmes to a total of £225 million. "We did so after the Premiers had earnestly assured us that to reduce loan programmes below £225 million would create great difficulties for their States and prevent them from meeting important actual commitments falling due."⁵⁹ Although the figure of £225 million was agreed to by the Loan Council, the States publicly complained that the refusal of the Commonwealth to provide sufficient money would slow down works and mean dismissals of workers. As the Federal Treasurer said: "Politically we made the worst of both worlds; for our increased taxes, levied, as it turned out, exclusively on behalf of the States, earned us much criticism. But some of the larger States, so far from acknowledging the value of our immense and timely aid, have done little but complain that we did not do more."⁶⁰

The same situation arose at the May, 1952, meeting. The States' programmes for 1953 (not including semi-governmental borrowing) totalled £351 million, whereas the market at reasonable rates and conditions was expected to yield £55 million. The Commonwealth proposed a total of £180 million and agreed to underwrite that figure. The States refused to budge below £247½ million and finally outvoted the Commonwealth to pass this figure as the borrowing programme for 1953.⁶¹

From this survey it is apparent that, as in other fields, there has been a shift in power in the direction of the Commonwealth. Its financial resources and control of currency enable it to exert a large amount of control on the total volume of public investment. Over a cycle covering depression, war and inflation, the institution of the Loan Council has undergone a profound change. It has recently been claimed that "the Council exercises an influence far beyond its original scope and functions and now virtually embraces not merely the co-ordination of public investment in Australia, but also the general

fiscal policy of the Commonwealth and the States". There is evidence for this view, but it does not reflect a complete picture.⁶²

The assumption by the Commonwealth of responsibility for economic security, and the changed climate of economic thought, have forced it to take a lively interest in the volume of public investment, and the Loan Council is one of the avenues for its pressure. Yet, paradoxically, its political power to carry out its policies is weakened because of the checks of the federal structure, again operating largely through the Loan Council. The latter has emerged as "a new States House"⁶³ where each Premier independently of party,⁶⁴ battles for works for his own State, and where together the States have, in 1953, refused to accept the Commonwealth's decision on the total volume of loan spending. Too much should not, perhaps, be made of this point, as the Commonwealth possesses the fiscal power to ensure that in the short run its decision is followed. However, the blame for unemployment and lagging State works appears to have been successfully laid by the States at the door of the Commonwealth and in the long run their non-co-operation may prove vital to a government.

It is further argued by many that it is not possible to secure full employment without a high degree of economic planning extending over to individual works. Certainly the Federal Government has of recent years been trying to direct investment to more basic industries, because of its internal policies and external commitments. The Loan Council does not provide the Commonwealth with legal power for this task, and the serious conflicts of recent years have shown the inability of indirect influence to fill the breach.

It is tempting to conclude that although the Loan Council has aided a shift in power which helps the Commonwealth Government or the various Governments to meet the needs of depression or war, it is not sufficient to preserve full employment without inflation. This problem, however, is common to all democratic communities and is not peculiar to federal states. On balance, the Loan Council appears as an institution which modifies the tendency of federal government to be conservative and weak, and is a significant aid to governments in meeting "the felt needs of the time".

In the proposals for the creation of a statutory council in 1927, Mr. Collier made a prophecy⁶⁵ which to-day seems more likely to be fulfilled. He claimed that the greater flexibility of Commonwealth resources, combined with a lack of sufficient moneys from the loan market, would force the States to hand over many of their functions to the Commonwealth. It seems that the Commonwealth may eventually supply loan money for works from central bank credit or its other sources of funds subject to conditions which the States will gradually be forced to accept. In this way a gradual control over the direction of spending of public works money could be achieved by the central government.

APPENDIX

Net loan expenditure 1935

	Original Request	By F.A. Formula	Now Allotted
	£	£	£
New South Wales ...	9,000,000	9,160,000	8,000,000
Victoria	5,500,000	3,030,000	4,000,000
Queensland	3,900,000	2,040,000	3,000,000
South Australia	2,400,000	2,020,000	2,100,000
Western Australia	2,920,000	2,480,000	2,600,000
Tasmania	1,715,000	350,000	600,000
Commonwealth	7,500,000	6,000,000	5,750,000
	£32,935,000	£25,080,000	£26,050,000

Source: D. B. Copland & C. V. Janes—*Cross Currents of Australian Finance*. Angus & Robertson, Sydney, 1936, p. 8.

20 | THE COMMONWEALTH GRANTS COMMISSION AND POLICY FORMULATION IN THE CLAIMANT STATES

R. J. May

I

At the last Annual Conference of the Australian Regional Groups Dr. G. S. Reid, in reviewing Commonwealth-State relations,¹ suggested that the trend in governmental relationships within the Australian Federation has been governed by the premise “that Australians, wherever they may live in the Federation, ought to enjoy governmental services at equal standards”.² A conscious movement of unequal units towards equality involves two central problems: determination of the standards at which equality is to be achieved, and determination of the means by which unequal units are to be brought towards these standards. In the Australian Federation the conscious progression towards equality, at least as reflected in the financial sphere, has been essentially a process of bringing the “weaker” States—i.e., those States which, by virtue of geographical and economic characteristics, have for some time been in a financially inferior position to the other States—up to the standard of the other States. The most important single means of achieving this has been the payment of unconditional block revenue grants (“special grants”) to States claiming assistance from the Commonwealth under Section 96 of the Constitution. The States concerned have been Western Australia (which has received special grants since 1910-11), Tasmania (since 1912-13) and South Australia (since 1929-30). Until 1933 special grants were made on a more or less *ad hoc* basis and were the subject of perennial wrangling between the claimant States and the Commonwealth. In that year the Commonwealth Grants Commission was created to consider States’ applications for special grants in a consistent basis. Before the Commission’s first appointment terminated in 1936 its three members had evolved a conceptual framework and a set of principles and methods upon which to establish a

permanent and consistent system of special grants. With some modifications these principles have been adopted by all subsequent Commissioners and the Commission's recommendations have always been accepted without change by the Commonwealth Parliament.

The much-quoted basic principle upon which the Commission's work has been founded was stated finally in the Commission's *Third Report* (1936):

Special grants are justified when a State through financial stress from any cause is unable efficiently to discharge its functions as a member of the federation and should be determined by the amount of help found necessary to make it possible for that State by reasonable effort to function at a standard not appreciably below that of other States.³

The Commission recognised that "differences of opinion (would) arise in its interpretation of the terms" and went on to elaborate its statement of principle:

The cause of financial difficulties, though immaterial to the general thesis, may have important effects on its application. For a State whose difficulties are due largely to its own mistakes or extravagance in the past, it would be reasonable to expect a higher degree of effort than for a State whose position was due largely to the effects of federal policy. If the difficulty were due to relative poverty of natural resources, an intermediate standard might be expected.⁴

But the Commission stressed that the determination of these standards was a matter of broad judgment, "based on the political and economic realities of the situation", and claimed no logical authority for its proposed standards, urging the Commonwealth Parliament to take ultimate responsibility in this direction.⁵

The procedure evolved by the Commission in determining special grants in this early period comprised four basic steps. After examining the latest final budgetary results of all the States and making adjustments where necessary to achieve comparability, the Commission calculated for each claimant State the amount necessary to bring its *per capita* budgetary deficit to the level of the three non-claimant States.⁶ The use of final figures introduced a type of lag in the system—the grants recommended for payment in year *n* related to the budgetary result of year *n-2*. This amount was then adjusted to take account of differences in standards of expenditure and revenue raising between each claimant State and the average of the standard States, in respect of maintenance of capital equipment, costs of administration, scale of social services, severity of taxation, charges for State services and local government activities. To the amount emerging from the first two stages of the calculation a deduction was made, representing a "sacrifice" or "effort" required of the claimant States as a "penalty" for errors of policy and an incentive to overcome their financial inferiority. This requirement comprised two elements: a uniform

penalty on all claimant States and a differential deduction varying according to the extent to which a State's disabilities were deemed to be due to its own mistakes in past or current policy. These were measured in terms of two of the factors in respect of which the comparable budgetary deficits had been adjusted—the former in terms of a lower standard of social services (by up to 10 per cent), the latter in terms of a higher severity of taxation (by up to 10 per cent)—but the Commission stated that this procedure did not imply any judgment by the Commission as to how the States should attempt to overcome their disabilities. But, finally, the Commission stressed that these calculations merely provided a guide to the final recommendation, and from time to time made marginal adjustments to the calculated grants in accordance with its “broad judgment”.

Subsequent developments in the Commission's work brought modifications to its methods in four directions. Firstly, in some later years the net budgetary experience of the non-claimant States was a surplus; in each case where this has happened the Commission has adopted as its standard a balanced budget, though it has not dismissed the possibility of a surplus budget standard.⁷ Secondly, as economic conditions changed, the effect of the two year lag in the system became more acute. At first this was overcome by making advances and deferments to the grants as current conditions dictated, these being taken into account in the grants two years later. In 1943 this procedure was extended by the making of a supplementary grant during the year. Finally in 1949 the Commission revised its procedure, adopting a system in which the grant recommended for a particular year comprised two parts, the first part being calculated according to the established procedure and the second being designed to cover each States' “indispensable need”, after allowing for a “margin of safety” in the current year and being taken into account, of course, in the first part of the grant two years subsequent. Thirdly, under the influence of wartime conditions and with the Commission suffering from a shortage of staff, from 1944 all budgetary adjustments in respect of standards in the selected expenditure and revenue raising items, with the exception of standards in the scale of social services and severity of taxation,⁸ were suspended. In 1949 an adjustment for the level of charges for States services was reintroduced and five years later its scope was substantially expanded under the new title “differential impacts of financial results of State undertakings on the budget”. Although the Commission did not resume the other adjustments in their earlier form, generally the range and depth of its activities in making budgetary adjustments has increased markedly over the past ten years under sustained pressure from both the Commonwealth and the State Treasuries for more detailed examination. Fourthly, the penalty for past mistakes was suspended in 1944 and the requirement for effort the following year. These have never been reintroduced, the

Commission taking the view, in apparent opposition to the Commonwealth Treasury, that the claimant States cannot reasonably be expected to make greater effort than that already implicit in the standards used in the Commission's methods.⁹

It can be appreciated from this review that the Commission's methods—and would be appreciated much better after an analysis of the interaction between the States, the Commonwealth Treasury and the Commission during the Commission's hearings each year—that the Grants Commission can exert a substantial influence over the policies of the claimant States. The Commission has always stressed, and the States generally acknowledged, that it does not wish to dictate State policies, but as the Commission itself has said:

The Commission has no authority to recommend policy: for it to do so would be inconsistent with its function of reviewing financial needs. Nevertheless, though it has no authority to make recommendations of a policy nature, it is now inevitable that its recommendations based on financial needs arising from conditions peculiar to each claimant State, must both affect and be affected by, current policies of each claimant State.¹⁰

Some of the evidence of this influence is presented in the following section.

II

In a loose sense the Grants Commission could be said to exert an influence over the policy of the governments of claimant States through its determination of the size of special grants since special grants constitute a major source of revenue in the budgets of these States and hence influence substantially the level of the States' expenditure and the consequent scale of governmental activity. In this sense there is no real question of a redirection of State expenditure,¹¹ (and hence a "cost" in terms of policies foregone), but merely a question of the extent of the addition to State expenditures (or reduction of revenue raising) made possible by the Commonwealth grant. Nevertheless, State ministers have from time to time made this objection to the work of the Commission. In 1946 the Western Australian Treasurer put the point:

... it is very striking that, in the case of a State with small revenue, a small body of men has the power to determine the extent of the financial obligations the State should undertake.¹²

His successor continued to press this argument and in 1948 initiated a Premiers' Conference attended by Western Australia, South Australia and Victoria, at which the need to maintain States' "sovereignty" was stressed. In a more specific context, when in 1942 the Tasmanian Government was given, informally, wrong information regarding the size of the special grant recommended by the Commission, and as a result subsequently had to revise its draft budget, the Treasurer had

little hesitation in holding the Commission responsible for a decision of the State Government not to grant a rise in public service salaries.

More significantly, the Commission's method of determining special grants, involving detailed consideration of selected items in the States' budgets relative to norms of expenditure and revenue raising, tends to promote certain fiscal levels thus influencing policy in a qualitative sense. Within this category, the influence of the Commission's work is reflected in *ex post* adjustments to State expenditure and revenue raising to line up with the Commission's norms or to meet specific critiques by the Commission, and in State governments' anticipating of the Commission's standards in adopting certain fiscal levels or in deciding to adopt (or not to adopt) certain administrative policies because of the "favourable" (or "unfavourable") effect on State finances through the special grant system. It should be noted at the outset, however, that it is difficult to assess the actual extent of the Commission's influence over State policy: State governments are not always anxious to acknowledge the Commission's influence when it has been relevant while, on the other hand, the Commission offers a convenient scapegoat when unpopular decisions have to be made. Moreover, closer consideration is given to the implications of the Grants Commission's methods at some levels of policy formulation than at others and this is not always discernible to the outside observer.

In its most general application the Commission's "qualitative" influence is reflected annually in the process of budget formulation. When faced with the task of pruning departmental estimates of expenditure and deciding on levels of taxes and charges the Treasuries of the claimant States inevitably pay more attention to those items in respect of which the Commission makes adjustments than to items outside the range of the Commission's detailed examination.

The first clear evidence of the Commission's influence over specific State policies came after the presentation of the Commission's *Fifth Report* in 1938. In a special chapter of the *Report*, entitled "Financial Policy in Times of Prosperity", the Commission drew attention to several fields in which, it considered, claimant States may not have been minimising their needs "by reasonable policy within the limits of fair Australian standards".¹³ South Australia was criticised for its failure to collect outstanding public debts,¹⁴ Western Australia for continuing unproductive loan expenditure and Tasmania for the unsatisfactory way in which its railway system had been administered. These matters were "taken into consideration" in the final assessment and the amount of each State's grant reduced somewhat from the amount of the initial calculation.¹⁵ In the same *Report* the Commission noted that a reorganisation of Tasmania's local government system seemed to be urgent.¹⁶ In the *Report* of the following year the charges against South Australia and Western Australia were repeated. But the

Commission noted that a Transport Commission had been appointed by the Tasmanian Government (the Commission had been established in the face of strong opposition in the State Parliament) to co-ordinate and control the various transport services of the State, and by 1940 the Grants Commission was able to report:

The Commission is much impressed by the manner in which the Transport Commission has approached a difficult task. Already there are signs of improvement in the railway finances . . .¹⁷

Also in 1939 the Tasmanian Government appointed a Royal Commission to examine the State's local government system. This Commission reported late in 1939. In 1940 a special parliamentary session was held to implement some of its recommendations and after much controversy legislation was passed with upper house amendments. In its *Seventh Report* (1940) the Commission acknowledged that some action had been taken by South Australia and reduced the penalty adjustment, but observed that action had still not been taken by Western Australia. In making an adjustment to the Western Australian grant the Commission summarised its position: —

While it is not our province to interfere with State policy, we deem it our duty to point out that a claimant State cannot reasonably expect to invest in unproductive works or enterprises and to get all the resulting losses made up in the form of special grants.¹⁸

The same *Report* refers to two further instances of the Commission's influence on State policies, both in South Australia. One concerned the appointment of a committee to investigate uneconomic farming settlement in marginal areas; this followed some critical comments by the Grants Commission (though other factors were relevant to the State's move). The other related to the work of a select parliamentary committee which, in considering the State's policy on unemployment relief, sought "to ensure that its policy shall not react upon the Commonwealth grant".¹⁹

As the Commission's work became more routinised and with changes in the range of its budgetary adjustments, there has been less evidence of its influence over administrative policies and more evidence of its influence in specific fiscal items. As early as 1939 there is evidence of the Commission's having figured in a decision of the Western Australian Government to raise the level of probate duty in that State.²⁰ Ten years later the Western Australian Treasurer, in announcing increases in charges for State rail and tramway services, acknowledged the Commission's considerations regarding charges for State services.²¹ Again in presenting his 1953-54 budget the Western Australian Treasurer stated that the decision to re-introduce entertainments tax in that State was made to avoid a reduction in the State's special grant;²² in the same year probate duty and railway freight

charges were both raised after the Commission's calculations had shown them to be low relative to the other States. The Commission's standards of probate duty were again taken into account when in 1956 amendments were made to the Western Australian *Death Duties Taxing Act*. In Tasmania, for some years the Government has fixed the level of its probate duties to yield an amount equal to the average yield from probate duty in the non-claimant States,²³ (i.e., the standard adopted by the Commission).

This deliberate gearing of fiscal levels to the average levels in the "standard" States appears to have been quite general among the claimant States. In Tasmania the principle seems to have been applied to most taxes, notably probate duty and land tax,²⁴ and has also governed the level of salaries paid to the State's teachers and police and, to some extent, the level of social service expenditure.²⁵ Similarly in South Australia, in announcing a number of tax increases (including increases in certain succession duties and in stamp duty and re-entry into land tax) in 1952, the Treasurer said:

The adoption of these proposals will result in the State raising its levels of direct taxation in the aggregate to the levels used as a standard by the Commonwealth Grants Commission in assessing the relative severity of State taxation.²⁶

The Treasurer went on to give an illuminating account of the way in which the Commission's methods influenced the levels of State taxes, charges and expenditures.²⁷ In its submission to the Commission for 1954-55 South Australia put the point again in relation to charges for State services:

. . . it has been the objective of the State to keep at least abreast of other States in making reasonable charges in its State undertakings.²⁸

In the same year the State raised its motor taxation to a level "at least on a par with the eastern States" in order to avoid further unfavourable adjustments by the Commission.²⁹ A similar position appears to exist in Western Australia. In presenting the budget for 1953-54 the Treasurer referred to the implications of the Commission's methods on standards of revenue and expenditure in claimant States, claiming that under the Grants Commission's methods the State had to keep taxation and expenditure to limits set by the standard States.³⁰ The point was raised again the following year and the Treasurer said:

. . . the Treasurer of this State, or of any claimant State, is certainly circumscribed in his efforts to carry out Government policy within the limits of the finance available.³¹

A similar comment was made by the Western Australian Treasurer in 1960-61 when announcing increases in Metropolitan Transport Trust fares, Metropolitan Water Supply charges and rail fares and freight charges.³²

There have also been, in recent years, several examples of the Commission's work having entered (or been dragged in) as an important consideration in State Governments' decisions on "administrative" (as opposed to "financial") policies. Perhaps the most publicised of these related to a proposal by the Tasmanian Government to introduce football pools in that State. The matter was raised in the Tasmanian Parliament in September 1957, shortly before the Government, in presenting its budget, made clear its intention of introducing the scheme. As would be expected, the move met with strong opposition inside and outside the State Parliament.³³ Most of the criticism was on moral grounds, but a question was raised as to the effect of the measure on the State's finances, considering the Grants Commission's methods. This question was taken up by the *Mercury*, which claimed:

The State actually will not benefit at all. Whatever amount is raised from football pools, the Grants Commission will automatically reduce the grant by an equivalent sum.³⁴

Then in mid October, under the headlines "Under-Treasurer Opposed State's Football Pools Legislation" the *Mercury* reported that in a Treasury file tabled in the House of Assembly on 16th October it was revealed that the Under-Treasurer had informed the Government that the introduction of football pools "would not increase the revenue of the State by one penny."³⁵ The Bill, having been defeated in the House of Assembly was subsequently rejected by the Legislative Council and dropped. While the *Mercury* and its "Political Observer" undoubtedly exploited the evidence of the State Treasury's lack of enthusiasm regarding the financial aspects of the scheme, it would seem that in a meaningful sense the Commission's work could be said to have influenced the defeat of the proposal, and at least provided a useful weapon for the opponents of the measure.³⁶

In a similar case, at one stage during the discussion, in the 1950's, regarding the payment of grants to non-State schools in Tasmania State Treasury officials were consulted on the question of the effect such a move would have on the State's finances via the Grants Commission's assessments. A further instance occurred in Western Australia in 1953-54. After failing in three attempts to pass legislation restoring quarterly basic wage adjustments the State considered, but decided against, applying, by executive action, adjustments to the salaries of government employees. The main reason given was that such a move would "incur the wrath of the Grants Commission, which would undoubtedly refuse to meet any portion of the State's deficit" (arising from such a policy).³⁷ The Commission featured in an almost identical decision of the Tasmanian Government in November 1960.³⁸

In a more subtle form, the Commission's influence also permeates the financial accounts of the claimant States—with implications for policy. The most notable example here has concerned the Tasmanian

Government's treatment of the accounts of the State Hydro-Electric Commission. In its *Fourth Report* (1937) the Commission noted that the Hydro-Electric Commission was devoting a substantial part of its profits to depreciation, contingency and loan redemption reserves and to capital expenditure; this had the effect of cutting down the amount of the credit balance payable to Consolidated Revenue and hence failing to contribute further to reducing the State's budgetary deficit. However the Commission did not judge the transfers to reserves to be excessive and made no adjustment. The subject came up again in 1949, when the Commission noted that while the H.E.C. was dividing its profits between reserves and Consolidated Revenue, losses on unprofitable rural extensions were being financed from Consolidated Revenue and Loan Account. In addition the Commission observed that repayments of H.E.C. loans were not being used to offset sinking fund payments from Consolidated Revenue. The following year the Commission made appropriate adjustments. By 1951 the Tasmanian Treasury had altered its policy in the second respect, to meet the Commission's objection, but defended its policy on the question of rural extensions, which was debated over successive years. In its 1952 submission the State Treasury, referring to the Commission's proposal, said:

This in effect means that the Hydro-Electric Commission should become a taxing authority whereby consumers of its product are taxed in order that a subsidy may be paid in the interests of general development. The contention of this State is that all sections of the community should bear the burden of the subsidy, because in the long run all sections of the community will benefit.³⁹

On the other hand, the Commission, while acknowledging that the issue involved questions of State policy which must be decided by the State Government on its own responsibility, continued the unfavourable adjustment. In 1953 the Tasmanian Government announced to the Commission its intention of reviewing the relevant legislation,⁴⁰ but the matter appears still not to have been finalised.⁴¹ A further example from Tasmanian experience concerns that State's discontinuance of annual payments from revenue to liquidate losses under the Soldier Settlement, Closer Settlement and State Advances to Settlers agreements. The discontinuance was in response to comments by the Commission.⁴² In announcing the Government's intention the Treasurer said

. . . the Government, while not conceding that the Commission's view is correct or that the provision of these items was anything else than normal, sound, financial practice, has been obliged to discontinue these payments.⁴³

In an earlier period, the Western Australian Government in 1939 introduced legislation designed to divert part of the proceeds from motor taxation from the Roads Fund to Consolidated Revenue. This

followed suggestions by the Grants Commission. The measure was rejected by the State Legislative Council. The subject was raised again in 1940 and in 1941. In the latter year, after the Parliament was informed of the Government's intention to re-introduce the bill the following exchange took place:

Hon. C. G. Latham: It is a way of trying to get some of the Federal money.
 Hon. J. C. Willcock (Prem.-Treas.): Yes. I say candidly that that is so . . . While we may not agree with the reasoning of the States Grants Commission in making this reduction, we have to face the fact that it has been made. . . .⁴⁴

More recently a similar diversion of motor taxation revenue was made from the Tasmanian State Highways Trust Fund.

Though the Commission's influence, as one would expect, has been largely confined to the claimant States, it has not completely avoided the non-claimant States and the Commonwealth. Since its establishment the Commission has done much to achieve uniformity in States' accounts and financial procedures, comparability of States' finances being demanded by the Commission's methods. As early as 1934 the Commission made representations to the Prime Minister seeking immediate steps to bring about greater uniformity in the presentation of States' public accounts and statistics. While noting some improvements the Commission continued to press the subject in subsequent years. In 1943, following a further appeal to the Prime Minister by the Commission, a conference of Commonwealth and State Treasury officers drew up certain proposals for greater uniformity of financial statistics, along lines suggested by the Commission; these were accepted at the Loan Council meeting of that year. In 1947 the subject of uniformity in accounting and financial practice was discussed at a preliminary conference of officers from the Commonwealth and State Treasuries, Commonwealth Bureau of Census and Statistics, Commonwealth Bank, Department of Post-War Reconstruction and Grants Commission, and later at an informal meeting of State Under-Treasurers; this followed a representation to the Prime Minister in 1946. In 1948 a conference of railway accounting officers from all States met to discuss uniformity in railway accounting. In all these discussions the Commission has played a major role, both in initiating discussion and in influencing its results. More significantly, before Queensland applied for a special grant in 1958⁴⁵ steps were taken by the State Treasury to bring into line several items of its budget in respect of which the Commission, while using Queensland as a standard State, had been making corrections. There are even isolated instances of claimant States pressing the standard States to increase their expenditure in certain fields, the ulterior motive being to achieve an increase in their special grants. When in 1944 the Victorian Premier referred to Tasmania as a "mendicant State" the fiery Tasmanian

Treasurer, E. Dwyer Gray, responded by labelling Victoria a "sub-standard State in social services" and, claiming the support of the Leader of the Victorian Opposition, had his views brought before public attention through Victorian and New South Wales newspapers. For some time before this, the Treasurer had been complaining strongly against the Grants Commission's "restrictions" on the State's social service expenditure. In recent years representatives of the claimant States at conferences of State ministers of education have drawn the attention of Queensland representatives to their State's relatively low expenditure on education. The Commission has had little influence on Commonwealth Government policies (outside of special grants). In its *Third Report* (1936) the Commission recommended that the Commonwealth investigate the possibilities of developing the north-west portion of Western Australia and of providing technical and financial assistance, to supplement special grants, to Tasmania. The recommendations were ignored by the Commonwealth, except that an officer of the Commonwealth Treasury rebuked the Commission for exceeding the scope of its powers. In the early years of its work the Commission also expressed concern over the growth of special purpose grants, pointing out that such grants could cause "overlapping and other anomalies" *vis-à-vis* the special grants system;⁴⁶ again the Commission was ignored. In one instance however, repeated corrections by the Commission, in respect of losses on the Morgan-Whyalla Waterworks (a joint South Australia-Commonwealth undertaking) charged against the South Australian budget, resulted in the negotiation of a new agreement between the two governments, which omitted the controversial provision.

III

As against this record of the Commonwealth Grants Commission influencing States' financial and administrative policies, there are abundant examples of States continuing to adopt positions which they know will incur unfavourable adjustments to the Commission's basic grants and of State Governments taking action which will have a favourable effect on grants with apparently no regard to this effect. But the whole process of discussion each year between the claimant States and the Grants Commission could be regarded as one of highly technical and "refined" bargaining between experts, with the object of the States' representatives being to modify, extend or reinterpret the Commission's methods in such a way as will benefit their State's special grant.

The notable feature of the situation, given the Commission's influence over State policy, is that so little has been made of the matter at the "political" level. Apart from its early years, when the Commission's membership and its work came under spasmodic fire (strongest after the Commission had recommended grants smaller than the pre-

vious year's), there has been little serious challenge to its work by the claimant States.

The major exception to this centres around the colourful Tasmanian Labor Treasurer, Dwyer Gray, in the 1940's. Dissatisfied with the Commission's determinations and believing that special grants were "merely a palliative" and not a permanent solution to the claimant States' financial problems, Dwyer Gray, supported by the *Mercury*, launched a continued attack on the Commission, objecting to its methods, accusing it of inconsistency, suggesting that (in the instance of the 1942 error in advising Tasmania of its grant) the Commission had been induced by the Commonwealth Treasury to change its recommendations,⁴⁷ and making personal attacks on members of the Commission.⁴⁸ Dwyer Gray's shrewd political manoeuvring included the organisation of the State's teachers to complain against the Commission's methods—after they had been convinced that the Commission was to blame for a decision not to grant their demands for an increase in salary⁴⁹—the publicising of a proposal, grandiosely entitled "The Tasmanian Parliamentary Formula", which sought a reformation of Commonwealth-State financial relations,⁵⁰ and exploiting party politics by the claim that "fining" a State for its expenditure on social services was "a very nice principle" for a Federal Labor Government to condone. The campaign succeeded in obtaining an enquiry into the Commission's work by a committee of the Federal Parliamentary Labor Party (the report of the Committee was never presented) but died out after Dwyer Gray's death in 1945 without having brought any significant change in the Commission's work. Yet even Dwyer Gray was prepared to defend the Commission against other critics.⁵¹ Apart from this, State representatives have made occasional complaints of the type that "it is not right" that a small body of men, not responsible to the States' electors, should have such influence over States' financial and administrative policies⁵² and that the system represents an invasion by the Commonwealth of States' sovereignty.⁵³ The charge has also been made that the system promotes financial irresponsibility in some directions.⁵⁴ Or as one State Premier colloquially summarised his attitude:

. . . if the complexion of the Grants Commission changed and men who have no sympathy towards the claimant States are appointed, we will be in queer street overnight.⁵⁵

But generally speaking the claimant States have appeared favourable to the Commission's work and have accepted what incidental influence it has exerted without strong objection. At times the States have even acknowledged the value to the claimant States of the Commission's detailed examination of their finances⁵⁶ and when in 1958 a Queensland Liberal Party Convention was discussing a move to press for the establishment of a joint committee of public accounts in that

State, the State Treasurer advised against such a move on the grounds that the Queensland Government was to make a claim to the Grants Commission and that this would render such a committee redundant. The claimant States have also supported moves for extensions of the Commission's powers into other fields of federal finance.⁵⁷ In 1940 a motion was put to the Western Australian Parliament calling for an enlargement of the Commission's powers to include the making of recommendations to the Loan Council.⁵⁸

When in 1959 Commonwealth-State financial relations were reformed, reducing the relative importance of special grants and removing South Australia from the claimant State status, the South Australian Government appeared to be satisfied with the change and accepted its new status (having first secured an increase in the amount of the new basic grant), with little complaint.⁵⁹ A member of the Government expressed the view:

There are implications in our freedom from the Grants Commission . . . It gives us far more control over our own affairs . . .⁶⁰

But political opinion generally was mixed and many criticised the Government's move. On the other hand both Tasmania and Western Australia expressed their strong preference for the existing system.⁶¹

IV

This paper has attempted to do no more than to outline the methods used by the Commonwealth Grants Commission in determining special grants, consider the evidence of the Commission's work on State policies and briefly glance at the States' attitudes to the question. The emergent conclusion—that the work of the Grants Commission does have an important bearing on State policy both in that special grants constitute a major source of claimant States' revenue and in that the Commission's methods inherently tend to induce the States to adopt certain standards of expenditure and revenue raising for particular items, and to give consideration to the Commission's past critiques and potential reactions when formulating policies—clearly has deeper implications. In the first place, the exercise and, generally speaking, the acceptance of this influence is particularly relevant to the basic question of States' "sovereignty" and of the very nature of federalism as a system of government.⁶² Secondly, while special grants constitute part of the complex of forces tending to bring about equality between States in the provision of governmental services, the system on which special grants operate tends to increase differentiation between State blocs.⁶³ This has been reflected, for example, at Premiers' Conferences and to a lesser extent at Loan Council meetings, lending support to the general thesis that undue emphasis has been placed on the issue of "the States" versus the Commonwealth and insufficient on the issue of inter-State differences.⁶⁴ Thirdly, from the viewpoint of the admini-

strator this analysis would suggest that the Treasury in a claimant State may be unusually influential (e.g. *vis-à-vis* the Parliament) in State policy formulation⁶⁵ and this, it could be argued, may render it more difficult for opposition parties to displace the government. Finally the phenomenon of a central government exerting such influence over the budgets of States suggests an interesting extension for that field of study currently referred to as “budgetary theory”.

21 | THE AUSTRALIAN AGRICULTURAL COUNCIL: A SUCCESSFUL EXPERIMENT IN COMMONWEALTH-STATE RELATIONS

F. O. Grogan

Under the constitution of the Commonwealth of Australia certain powers are reserved to the Commonwealth and residual ones remain with the States. These powers are not in all cases mutually exclusive and the Commonwealth and one or more of the States may deal with the same subject (e.g., taxation). In such cases if there is any conflict or contradiction between Commonwealth and State legislation, the former prevails.

One of the powers *not* conferred on the Commonwealth is that of legislating with respect to agricultural production. Overseas marketing, however, does come within the Commonwealth's province. The close relationship between production and marketing of agricultural and pastoral products is obvious; particularly so, perhaps, to the producers and to their representatives in the Commonwealth and State parliaments. Over one half of the total production of these products is marketed overseas and provides approximately 80 per cent. of Australia's export income. For producers the problems of growing their crops and of marketing them are two aspects of the same problem of making their activities pay.

The position in Australia where, under federalism, the States have successfully maintained their control over agricultural production presents an interesting contrast with the situation in Canada and in the United States of America, where, under a federal form of government in each case, a very different position has arisen.

Comparatively little has been written regarding the constitutional aspects of Commonwealth-State relations with respect to agriculture. It is interesting that in the proceedings of a conference conducted by the Australian Institute of Political Science in March, 1953, at which

experts discussed a wide range of constitutional problems which had emerged since Federation, agriculture received no discussion. This omission is the more striking because at the time rural problems were pressing and giving concern to both Commonwealth and State Governments.

With the divided constitutional responsibility the need for consultation between the Commonwealth and States on agricultural and marketing matters had early become clear; the need for co-ordination of agricultural research had also become evident following the establishment of the (Commonwealth) Council of Scientific and Industrial Research.¹ To meet this latter need a Commonwealth State Standing Committee on Agriculture had been formed but agricultural matters of common concern were handled by correspondence between the State or by ad hoc conferences of Ministers from the States concerned, and at times, with Commonwealth Ministers.

ESTABLISHMENT OF THE AUSTRALIAN AGRICULTURAL COUNCIL

Sir Earle Page, the leader of the federal Country Party, had for a number of years advocated the formation of a body where Agricultural Ministers of the States and Commonwealth could meet as experts, free from the publicity and party political considerations inevitably associated with Premiers' conferences. He considered that such a body might agree on national policies for agriculture and might find solutions to the numerous problems, especially in the marketing field, where the difficulties in the way of the Commonwealth and State Governments reaching a unified view prevented speedy and effective action.

On 3rd December, 1934, a conference was convened by the Prime Minister of Commonwealth and State Ministers on agricultural and marketing matters. Sir Earle Page, who was the Commonwealth Minister for Commerce, acted as Chairman and in his opening address stated that the conference had been summoned to discuss four things:

- (1) Means to make it possible for Australia to speak with one voice on agricultural and marketing matters;
- (2) Determination of a definite policy in regard to international and especially intra-Empire marketing relations;
- (3) Formulation of a definite policy on wheat, both immediate and ultimate;
- (4) The finalising of a basis of a rural rehabilitation scheme through relief of farmers' debts.

The conference resolved unanimously to form the Australian Agricultural Council, a Ministerial organization to provide the basis for

continuous consultation amongst Australian governments on economic aspects of primary production. The Council was to consist of the Federal Minister for Commerce and the State Ministers concerned with Agriculture, with the power to co-opt other State and Commonwealth Ministers as the necessity might arise. Primary production was assumed to mean agriculture in the widest sense but not to include mining, fisheries or forestry.

The primary objective of the Council was to promote the welfare of the agricultural industries and to foster the adoption of national policies towards that end. In addition it was recognized that the Council would from time to time be called on to consider special problems which might necessitate the inclusion of Ministers other than those controlling agricultural departments.

The functions of the Council were agreed to be:

- (a) Generally to promote the welfare and development of agricultural industries;
- (b) To arrange the mutual exchange of information regarding agricultural production and marketing;
- (c) To co-operate for the purpose of ensuring the improvement of the quality of agricultural products, and the maintenance of high-grade standards;
- (d) To ensure, as far as possible, balance between production and available markets;
- (e) To consider the requirements of agricultural industries, in regard to organised marketing;
- (f) To promote the adoption of a uniform policy on external marketing problems, particularly those pertaining to the negotiation of intra-Empire and International Agreements;
- (g) To consult in regard to proposals for the grant of financial assistance to agricultural industries;
- (h) To consider matters submitted to the Council by the Standing Committee on Agriculture.

The Council has no statutory authorisation and its constitution rests on the formal acceptance by the Commonwealth and the six State Governments of the membership and functions recommended by the Conference of December, 1934.

A permanent technical committee was also set up at the same conference to enable the Council to perform its functions adequately. This Committee was to be known as the Standing Committee on Agriculture and initially comprised the Permanent Heads of the State Departments of Agriculture, members of the Executive Committee of C.S.I.R., the Secretary of the Commonwealth Department of Commerce and the Commonwealth Director-General of Health. The last-mentioned was included because plant and animal quarantine is a responsibility of the Department of Health.

The duties of the Standing Committee in addition to advising the Council on the matters listed under (a) to (h) above, included:

- (i) to secure co-operation and co-ordination in agricultural research throughout the Commonwealth;
- (ii) to advise the Commonwealth and State Governments, either direct or through the Council, on matters pertaining to the initiation and development of research on agricultural problems;
- (iii) to secure co-operation between the Commonwealth and the States, and between the States themselves, with respect to quarantine measures relating to pests and diseases of plants and animals, and to advise the Commonwealth and State Governments with respect thereto.

The previously existing Standing Committee on Agriculture of C.S.I.R., which had dealt with research, was absorbed into the new body. It was determined that the Commonwealth Department of Commerce would provide secretarial assistance for the Agricultural Council while the secretarial work for the Standing Committee on Agriculture would be done jointly by the Department of Commerce and the C.S.I.R.

LATER CHANGES IN THE COUNCIL AND STANDING COMMITTEE

Although the basic charter of the Council as described above has not been changed, the scope of its activities widened enormously during the war years and temporarily a number of additional Commonwealth members were added to the Standing Committee on Agriculture, e.g., representatives of the Department of Supply, the Director-General of Manpower, the Commonwealth Statistician, the Department of War Organization of Industry, the Commonwealth Director-General of Agriculture. With a return to peacetime governmental relationships in agriculture, the Standing Committee reverted to its original membership, except that the Commonwealth Department of the Treasury was given representation and more recently the Permanent Head of the Commonwealth Department of Territories has become a member.

Following the creation of the Departments of Primary Industry and of Trade in 1956, the Minister for Primary Industry became Chairman of the Council and the Minister for Trade was co-opted to represent the Commonwealth on matters relating to trade. The Permanent Heads of the Departments of Primary Industry and Trade became members of Standing Committee, which now comprises the Permanent Heads of the six State Departments of Agriculture and representatives of the Commonwealth Departments of Primary Industry, Trade, Health, Territories, Treasury and the Commonwealth Scientific

and Industrial Research Organization (formerly known as the Council for Scientific and Industrial Research).

C.S.I.R.O. no longer takes an active part in the secretarial work for the Standing Committee, which is performed by the Council Secretariat within the Department of Primary Industry. The Secretariat had been transferred to this Department following the abolition of the Department of Commerce and Agriculture, which had replaced the Department of Commerce.

THE COUNCIL AT WORK

The Council meets on average about twice a year and there have been forty-five meetings since its establishment. The practice is for it to meet in Canberra and in the State capitals in rotation, that is, every second meeting is in Canberra. An agenda is prepared before each meeting and includes matters brought forward from the previous meeting and any additional items requested by any of the Commonwealth or State Ministers comprising the Council.

There are no formally established or written rules of procedure. The proceedings are held in camera and the only publicity consists of announcements to the press by the Chairman of the decisions reached on individual items. The Commonwealth Minister of Primary Industry is the Chairman and his opening address, which in recent years has taken the form of a comprehensive review of the agricultural situation since the previous meeting, is also usually made available to the press.

The Council's proceedings are governed only by the generally accepted rules of debate and are of a very informal nature with the result that these rules are rarely, if ever, invoked. The order of speaking is anti-clockwise around the table with the Ministers opening the agenda items in rotation. An exception is in the case of items placed on the agenda at the request of a particular Minister who as a rule will open that item. A verbatim record of proceedings is taken by Hansard reporters and reports of the proceedings are printed but issued only on a confidential basis for restricted circulation to the Ministers and Departments directly represented on the Council and the Standing Committee.

The decisions of the Council are not, generally speaking, binding on the Governments which constitute the Council, but the Council's consistent aim is to reach agreement on a line of policy with respect to each item before it. Where such agreement is reached it is incorporated in recommendations of the Council which will be submitted to the Commonwealth and State Governments concerned and will usually receive favourable consideration and, where appropriate, be implemented. Where majority agreement only is reached in the Council there is never any assumption that a resolution will have

binding effect unless it is accepted by all the Governments concerned.

The difficulty encountered in reaching unanimous agreement and subsequent implementation varies with the nature of the matter under discussion. Some items may concern only some of the States; some may be matters of administrative convenience or of such a non-contentious nature that general agreement is readily reached; some may concern all States and the Commonwealth but the intrinsic difficulty of the problems involved may make general agreement difficult. Industry stabilization schemes which involve far-reaching consequences for producers and consumers and concerning which State viewpoints stemming from economic and political differences in the respective States may differ are an example of the latter kind. Again, in certain situations, the States might share a viewpoint but be unable to reach agreement with the Commonwealth; for example, on matters pertaining to export marketing there may be financial implications, or obligations under international agreements, which pose major problems for the Commonwealth Government but are not of direct concern to the States.

The Standing Committee usually meets for two or three days immediately preceding the Council meeting. Information papers on each agenda item are prepared by the Secretariat or submitted by the Departments concerned and are circulated in advance through the Secretariat. The aim of the Standing Committee is to reach agreement if possible between the Departments concerned on each item and to submit a concise summary report, with recommendations where appropriate, to the Council. It has been a common practice for the Standing Committee to meet on Wednesday, Thursday and Friday with the Council deliberating on the following Monday and Tuesday. This allows the week-end for preparation, processing and distribution of Standing Committee's Report to Council, a task involving, with an agenda of up to fifty items, a considerable amount of work.

This procedure greatly facilitates the Council's discussions as the Standing Committee is an expert body eminently suited for reviewing technical questions and, within limits, of advising upon most policy matters affecting agriculture. The Standing Committee meets independently of the Council from time to time to deal with matters requiring special attention at the direction of the Council; or to deal with matters of an administrative nature or pertaining to research which require a co-ordinated approach but not necessarily involving Ministerial approval.

The Standing Committee has no permanent staff of its own. The Agricultural Council's Secretariat in the Department of Primary Industry carries out all secretarial work of the Committee as well as of the Council but the Permanent Heads of Departments comprising the Committee usually have senior officials in attendance to advise

them and to assist in drafting reports and recommendations to Council.

The liaison between the Council and Standing Committee is very close. Members of Standing Committee are, almost without exception, always present at meetings of the Council to advise their Ministers. The reports of the Standing Committee are presented to the Council by the Chairman of Standing Committee who introduces each item by reading the Standing Committee's report. The State representatives act as Chairman of the Committee in rotation on an annual basis.

The Commonwealth Scientific and Industrial Research Organization, like the other departments represented on the Standing Committee, submits reports directly for consideration, and through its representative, participates actively in the discussions. Its interests lie more in the scope and co-ordination of research and the dissemination of research findings than in the administrative and policy issues with which the Committee also deals.

Many of the matters coming before the Council relate to joint Commonwealth-State marketing policy. If there are Commonwealth or State Marketing Boards dealing with a particular industry the views of the Boards would usually be presented to the Council by the Minister concerned and it is not usual for Boards to be granted direct access to the Council. Council's decisions on matters affecting a Board would be conveyed to the Board by the Minister under whom the Board operated.

Standing Committee's reports and recommendations may be accepted, amended or rejected by Council and normally require Council's endorsement before they have effect. The Council's decisions are conveyed by the Secretariat to the members of Standing Committee (including the Department of Primary Industry within which the secretariat is situated) for implementation. Where joint action is required the Department of Primary Industry would take the initiative in collaboration with the State members of Standing Committee concerned, although in matters of high Government policy the decisions may be subject to formal reference from the Minister of Primary Industry, as Chairman of the Council, to the State Ministers. Between meetings most matters arising out of the Council's and/or Standing Committee's deliberations are handled at the Departmental level between the Secretariat and the members of Standing Committee or between the Commonwealth and State Departments concerned.

The Standing Committee has held fifty-five meetings, an average of between two and three per year. The fact that the Standing Committee has met more often than the Council is explained by the fact that on certain difficult and contentious matters Standing Committees may have to meet more than once before achieving agreement on

the technical issues involved and arriving at recommendations to Council for policy decisions. Such a situation is obviously likely to arise where interim discussions or negotiations with industry representatives have to be arranged. The Standing Committee does not publish any reports or issue any prepared statements. All its reports are submitted on a confidential basis to the Agricultural Council or to the Commonwealth and State Departments concerned. The Secretariat at present consists of the Secretary and two assistants. Papers for Standing Committee and for Council are prepared in mimeographed form but Council proceedings are printed for confidential and restricted circulation.

THE WORK OF THE COUNCIL

The confidential nature of the proceedings makes it impossible to discuss in detail the work of the Council. However, certain general observations may be made with reference to—

- (a) changes over the years in the matters with which the Council has been concerned;
- (b) the degree to which the Council has succeeded in its aim of reaching agreement and common policy on agricultural issues;
- (c) the extent to which it has been found practicable to implement the Council's decisions.

(a) *Changes over the Years*

Matters discussed by the Council have always covered a wide range of topics relating to production policy, research, administration, extension, disease and pest control and prevention, marketing and economics, as they affect the full range of Australian agricultural and pastoral industries.

Factors which have had a bearing on the subjects covered by the Council's deliberations have included—

- (i) the changed financial relationships of the Commonwealth and States following the introduction of uniform taxation in 1942;
- (ii) changing emphasis in marketing problems leading to various forms of price support or stabilization schemes. These followed in many cases the wartime control schemes and/or the long-term purchase schemes of Australian products by the United Kingdom;
- (iii) the increasing importance placed by Governments and by producers on research and advisory services.

(i) *Commonwealth-State Financial Relations.* The Agricultural Council was not intended to operate as an agency for allocation of

Commonwealth funds for State activities. Although function (g) as set out earlier was "to consult in regard to proposals for the grant of financial assistance to agricultural industries" moneys to States are made available through other and quite different organizations such as the Loan Council and Grants Commission. However, one result of the present arrangements for tax collection and disbursement in Australia is that State Governments which wish to obtain special funds for expanding existing services or for new services to agriculture may have to convince the Commonwealth Government of the desirability of such expenditures. The Council forms an admirable forum for the discussion of such proposals on an informed and generally sympathetic basis. General agreement between Commonwealth and State Ministers in the Council on the desirability of a particular course of action is often the prelude to an approach by the Commonwealth Minister to Cabinet for the necessary funds.

Conversely, the Commonwealth can and does persuade the States to provide financial contributions towards projects which both consider worthwhile but which would probably be left undone without some financial support from the Commonwealth. Expert and amicable discussion of the methods of implementing special projects and of sharing the work and cost is facilitated by the Council and its advisory Committee—the Standing Committee on Agriculture.

(ii) *Marketing Arrangements.* Ever since the thirties (and it is no coincidence that the establishment of the Council dates from that period), marketing problems have been not least amongst those facing primary producers. Overseas marketing lies within province of the Commonwealth Government but can hardly be usefully considered in isolation from the production and home market aspects. Where legislation has been necessary to implement marketing or stabilization schemes joint or complementary Commonwealth and State action has usually been found necessary and co-ordination of aims, and of methods of achieving them, including the drafting of legislation, has been successfully obtained through the Council.

There is no space to review here, however briefly, the numerous marketing arrangements and stabilization plans which have been implemented under the aegis of the Council before, during and since the war. Most of these plans have involved protracted and complicated negotiations between producers and Governments at their initiation and on periodic renewal. Sometimes special meetings of Ministers are found necessary in addition to formal consideration at meetings of the Council, but generally the latter provides a very satisfactory clearing house for discussion and for reconciling divergent viewpoints where these exist.

The Wheat Industry Stabilisation Plan, a scheme for orderly marketing and for price guarantee to producers, may be cited as an example

of the activities of the Council in this field. The basis of the scheme is that the Commonwealth Government guarantees to wheatgrowers that they will receive at least an officially assessed cost of production on up to 100 million bushels of wheat exported from Australia. The State Governments, which control production and marketing within their own borders, in turn undertake to see that f.a.q. (fair average quality) wheat sold for local consumption will be sold at a determined price, not less than the cost of production. The producers agree to pay into a Stabilisation Fund certain sums derived from export sales when these are made at a figure above the cost of production. This fund is used to make up the deficiency when export realizations are below cost of production and are supplemented if necessary from Commonwealth Government funds. To facilitate the working of the scheme all wheat for marketing is vested in a central marketing authority, the Australian Wheat Board.

The plan in its initial development was very contentious and difficult. The views of growers, of individual State Governments and of the Commonwealth Government had to be reconciled on a wide number of issues; for example, the principle of guarantee on exports and the level of guarantee, the principle of a stabilisation fund and the respective contributions to be made by the producers and by the Government, the level of the home price at which wheat would be sold in the States, the question of whether the same price should apply to wheat sold for human consumption and for stock feed, the duration of the plan, the method of assessing cost of production and yearly variations therein.

When agreement on these and other difficult issues involved in the scheme was reached, it had to be confirmed by an Australia-wide referendum of wheat producers and then implemented by Commonwealth and State legislation designed to overcome the legal difficulties arising out of the constitutional division of functions and in particular Section 92 of the Commonwealth Constitution relating to freedom of trade between the States.

The negotiations for the present plan began in 1950 and ended in 1954. The Agricultural Council considered the proposals several times, as did the Ministers in special conference. Final agreement was reached at a Premiers' Conference and the matter was referred back to the Ministers to complete the arrangements.

It is certain that without the machinery for continuing and expert consultation provided by the Agricultural Council, the agreement necessary for the scheme would, if indeed it were possible, have been much more difficult of attainment.

(iii) *Research and Extension.* The Council was from the beginning concerned with agricultural research and with co-ordination of the Commonwealth and State activities in this field. Marketing problems,

particularly those of disposing of Australia's export surpluses over the years, have highlighted the need for maximum efficiency and low costs in production. The Commonwealth Government has become increasingly interested in encouraging the most effective prosecution of research over a wide range of agricultural problems and in the speediest dissemination of the findings of such research to the producers. The States have, cautiously at first, more enthusiastically in recent years, welcomed such increased interest by the Commonwealth while maintaining their own historical role in this field, particularly in extension and advisory work which they claim is integrally related to production and hence a State function.

Large sums of money have been provided by the Commonwealth to augment existing services and the basis of expenditure and administration and these funds has been agreed in the Council. A recent and extremely interesting and important development has been the formation of agreements between the Governments and individual primary industries for joint contributions to research and extension. In the tobacco industry, for example, the Commonwealth Government contributes £21,000 per year, the manufacturers £28,000 per year and the growers £14,000 per year in addition to a capital cost of £168,000 for which the Commonwealth Government and the manufacturers assumed full liability. The money is spent under the general supervision of the Tobacco Industry Advisory Committee, a body set up by the Minister for Primary Industry under the oversight of the Agricultural Council. Recently, after protracted negotiations between the Minister for Primary Industry and representatives of the Wheat Industry, a plan has been adopted and implemented by legislation whereunder the growers contribute $\frac{1}{4}$ d. per bushel on all wheat delivered for sale and the Commonwealth Government augments this contribution. The expenditure of the funds is supervised by State Advisory Committees nominated by the State Ministers for Agriculture and by a Central Committee nominated by the Minister for Primary Industry.

If wool industry research and extension (but not promotion) is included, the annual contributions by producers for research and extension are now at a rate probably in excess of £650,000 per annum and the total, with Government contributions, is over £2 million per annum. This amount is additional to that spent on agricultural services by the Commonwealth and States from their normal Budget and loan funds.

A further indication of the range and importance of the Council's association with research and advisory work and with industry economics is given by the numerous technical and policy committees and specialist conferences which operate in close or loose association with the Council. They cover most major fields of research in agri-

cultural science being carried on in Australia and include such committees as the Soil Conservation Committee, the Irrigation Production Advisory Committee and the Wheat Costs Committee. The activities of many of these bodies involve periodic conferences on an Australia-wide basis and the general oversight of such conferences to ensure the efficient and economical use of manpower and resources involved is one of the administrative functions exercised by Standing Committee.

(b) Degree of Agreement Achieved by the Council

Agreement is reached by the Council on the majority of items considered. On matters relating to research and administration, recommendations from Standing Committees are rarely amended or rejected. In Standing Committee the discussion of such matters is on a technical level. Recommendations are normally made on the basis of the greatest common ground after taking into account special problems of individual States. On matters where high Government policy is involved, discussion in the Council may be lengthy but the issues on which some progress has not been found possible have not been numerous.

One interesting example of a quasi-policy, quasi-technical issue on which contentious and difficult problems have delayed any final solution is the Australian system of marketing wheat on an f.a.q. basis. This matter was raised for discussion at the first meeting of the Council in 1935 and is currently under review again.

(c) Action Arising Out of Council Recommendations

It is not possible, without an analysis of the Proceedings of the Council, to list in detail the cases where action recommended by the Council has been taken by the Governments concerned. On the very wide range of matters relating to research, quarantine and administration of various Acts affecting Agriculture, it is true to say that in the great majority of cases where agreement has been reached by the Council it has been followed by appropriate action by the Government concerned.

With respect also to matters of the highest importance directly relating to both production and marketing policy, a remarkable measure of agreement has been achieved. As regards production policy this can be illustrated by the wartime production goals and targets, by the 1952 Statement of production policy and by the Statement regarding wheat production in Australia issued by the Chairman after the most recent Council meeting.

On the economic and marketing side a large number of extremely important and comprehensive industry measures such as rural rehabilitation (before the war), the home consumption price scheme for wheat which followed the Royal Commission on the Wheat, Flour and Bread Industries 1934-35, the numerous and complex arrangements

for the marketing of rural products during the war and the plans for assisting or stabilising primary industries in the post-war period and for marketing their products provide evidence of Government action following Council agreement.

EVALUATION

Problems on both the production and marketing sides of Australian agriculture have, within the constitutional and financial framework of Commonwealth-State relations, necessitated co-operation between the Governments. The Australian Agricultural Council with its permanent advisory Committee, the Standing Committee on Agriculture, has over the twenty-three years of its existence developed into an effective instrument for achieving this co-operation. It is perhaps not an exaggeration to suggest it is the most successful example of such co-operation in Australian Commonwealth-State relationships.

From the Standing Committee the Council receives highly competent technical advice which takes full account of the wide divergences in natural and economic factors affecting agriculture over a continental environment. Similarly, in the Council, State and Commonwealth Ministers have first-hand knowledge of the political, as well as the producers' problems, attaching to any particular issue.

Although at times differences of viewpoint have been strong, respect by the Commonwealth and States for each other's rights and problems has been evident throughout the proceedings over the years.² This fact, combined with the friendly personal relationships developed by continuing association at both Ministerial and official levels and the atmosphere of easy informality in which the meetings are usually conducted, has led to an understanding in the Council by each State for the others' problems and a very genuine desire to reach acceptable compromises where unanimous agreement is not possible. It is not suggested that such agreement or compromise is always reached. For example, the different views of the States on the relationships between margarine manufacture and the dairying industry have so far rendered difficult the formulation of a completely satisfactory and workable formula. However, even in such cases the frank, amicable and full discussion that is possible in the Council undoubtedly does much to prevent exacerbation of feelings between the States and to obviate precipitate or one-sided action.

The Council provides the Commonwealth Government with a unique opportunity for balanced assessment of problems and for the formulation of national objectives and plans as was evidenced by the role of the Council in the war years, by the publication of the pamphlet "Agricultural Production Aims and Policy" in 1952 and by the successful planning and implementation of a number of far-reaching

industry stabilisation plans. That the very great value of the Council's role is realised at the official level is clearly shown by the importance attached to it by the Commonwealth Permanent Heads who have been successively responsible for oversight of the Secretariat. Documentation of meetings of Council and Standing Committee is comprehensive and very carefully prepared and during the meetings of the Secretariat has the assistance of some of the most senior of the officers in the Department concerned.

From the States' viewpoint the Council is equally valuable. The relations in the Council are not those of donor and donee although the Council provides an opportunity to discuss financial aspects, including costs and contributions thereto, of various proposals, aimed at the general welfare of Australian agriculture which come up for consideration. Problems of individual States are seen in perspective when discussed with other States and with the Commonwealth and any State can press its viewpoint when considered necessary.

The Commonwealth Minister who acts as Chairman of the Council is merely *primus inter pares*; the Ministers present normally reflect different party political viewpoints as well as different State interests. This diversity of viewpoints, discussed on a basis of equality with the absence of publicity making political posturing pointless, and with the benefit of careful documentation and Standing Committee's expert advice makes for a thorough and dispassionate examination, with the minimum of rhetoric and irrelevance, of issues which are often difficult and contentious.

The degree of accord and constructive action which has been attained is a major achievement by the Council. Partly, perhaps, this reflects the personalities involved and good fortune in the Commonwealth Ministers and Permanent Heads upon whom the responsibility largely rests to make the machine work, or at least to provide the oil to make its working smooth; partly, perhaps, it reflects the underlying community of interest of the Commonwealth and State Governments in agricultural matters. Ignoring difference of political viewpoint, what is technically sound agricultural policy for a State is probably sound policy for the Commonwealth, at least with respect to that State. Where the need for statesmanship, and for effective consultation as an aid towards it, arises is, first, in disentangling the long term or national viewpoint from short term or sectional interests and, second, in reconciling State interests where these happen to diverge.

The Rural Reconstruction Commission in its Sixth Report, dated April, 1945, stressed the importance of a sound working basis for co-operation between the States and for the development of a national agricultural policy. It expressed the views that though the Australian Agricultural Council should have been well suited to its tasks experience had shown that success had only been partial particularly in

(then) recent years (i.e., the war years). It listed reasons for the (alleged) partial failure, the main ones being:

- (a) Meetings at fairly long and irregular intervals with over-loaded agenda and insufficient time for adequate deliberations.
- (b) A predominance of Commonwealth initiative in the preparation of plans with the States relegated to the role of critics.
- (c) A tendency to rush proposals through—sometimes due to wartime emergencies.
- (d) Distribution of information to members too late to allow for adequate consideration by members before the meeting.
- (e) The State representatives should come armed with sufficient authority from their Governments to reach agreement at least, on principles of necessary plans.
- (f) Insufficient agricultural knowledge and expertise on the part of staff of the Commonwealth Department of Commerce.
- (g) Necessity for a clear realization of effects of proposed schemes.
- (h) Desirability of direct contact with industry representatives to make up for staff inadequacies in the Department of Commerce in its task of advising the Commonwealth Minister on all aspects of the production side.
- (i) Necessity for machinery to deal adequately with problems (e.g., rural finance, irrigation and land settlement) affecting other State and Commonwealth Departments than those directly represented on the Council and Standing Committee.

The Commission believed that the Council and Standing Committee would have a better chance of effective work if—

- (a) The composition of these bodies were reduced to their pre-war form;
- (b) the bodies referred to were to meet at least quarterly and at fixed dates;
- (c) the Commonwealth were to extend its information service by passing to the States at intervals of not greater duration than one month all documents which are relevant to subjects likely to come up for discussion and which provided—
 - (1) statistical data;
 - (2) information concerning trade agreements made and in prospect; and
 - (3) surveys of trends in external markets;

while, on their part, the States were to appoint special officers to collect such information and consider it from their point of view and to keep the Commonwealth and other States informed as to crop prospects, special local problems, etc.;

- (d) heads of State agricultural departments were relieved of some of their administrative work by a process of decentralization and by the selection, appointment and training of more men with positions of senior responsibility who would be able to assist State directors in their routine work; and
- (e) care was taken in preparing the basic material for each subject on which decisions are required emphasizing first the reasons for the problem, secondly the way in which it specifically affects each State, and thirdly the relationship of various solutions to general agricultural policy apart from their relationship to the particular problem concerned.

With respect to the Commission's criticism³ and recommendations some comments may now (some twelve years later) be offered:

(i) The Council and Standing Committee have reverted substantially to their pre-war form as recommended by the Commission.

(ii) The Council meets at (approximately) half-yearly intervals with the Standing Committee meeting oftener as found necessary. Steps have recently been taken by the Council to prevent over-loading of the agenda and to ensure priority in discussion for the more important items.

(iii) With regard to important industry stabilisation schemes arrangements have been made, by appointment of sub-committees of Standing Committee or by delegation to Department of Primary Industry, to ensure adequate consultation with representatives of the industries concerned and for progress reports to Council.

(iv) In the post-war years the Department of Commerce and Agriculture and later the Department of Primary Industry was re-organized to include a Division of Agricultural Production and a Division of Agricultural Economics, both of which included graduates in Agricultural Science with experience of Australian primary industries.

(v) With the passing of wartime emergencies, information papers or discussion papers rather than cut-and-dried Commonwealth proposals or schemes have been circulated by the Secretariat. The Division (Bureau) of Agricultural Economics in particular has established co-operative working arrangements and interchange of information with State Departments in the wide range of economic surveys of primary industries which it has carried out in Australia and in Papua-New Guinea.

(vi) The State Departments of Agriculture supply to the Department of Primary Industry for collation at quarterly intervals a report on agricultural conditions in their respective States, while the Commonwealth provides a quarterly report on overall production and marketing trends. This is amplified in regular reports submitted to the

meetings of Standing Committee and Council. The current agricultural situation is usually reviewed in detail by the Chairman of the Council in his opening speech. In addition, the Department of Trade keeps Standing Committee and Council regularly and fully informed on such matters as trade agreements and developments in trade policy relevant to agriculture.

(vii) The Commission spoke of frictions between various authorities and concluded: "the success of any human organization must be largely dependent upon the attitude of mind and goodwill of those who operate it. It suggests that there is a real need for State authorities to recognize that as their States together form the nation and, as agricultural policies will be matters of even greater urgency in the future than they have been in the past, it follows that the States have definite obligations to regard the proceedings of the Australian Agricultural Council of the highest importance and to ensure its satisfactory working. This will not be achieved unless they regard it as their committee rather than as a Commonwealth body to which they are called."

The Commission took a pessimistic view of overseas market proposals and envisaged that ultimately the Commonwealth might be in a position in which it would have to consider control in the volume of products exported overseas and the manner in which those products are marketed. Marketing schemes for some of the major export industries have in fact been designed and put into operation.

Fortunately, however, so far the problems with which the Council has had to grapple since the war have been those of expanding agricultural production rather than the more contentious and difficult ones of acreage restriction and quota allocations. While this may have been a contributing factor to smooth working, no one who has attended recent meetings of the Council and Standing Committee could fail to be impressed by the cordial relations between Commonwealth and State Ministers and the obvious goodwill and desire on the part of all members of both bodies to make a constructive contribution to the welfare of Australian agriculture. The impression emerges of an effective piece of administrative and consultative machinery providing solutions to difficult problems that will not only be workable but which will satisfy the tests of democracy and of federalism in government. The Council, while reiterating its conviction that the individual producer rather than any central planning body must make his own decisions with regard to the nature and scale of his production, has given a lead as to the patterns of production along which it considers, in the light of the best available information, the national interest lies.

Any criticism that might be levelled at the Council today would not be that it is slow in arriving at decisions or unsuccessful in smoothing out State frictions as suggested by the Rural Reconstruction Commission. Perhaps any criticism now would be to the effect that the

Council has not sufficiently taken the initiative with respect to major policies affecting agricultural development. On the marketing side schemes for orderly marketing or for assistance to industries to meet rising costs and stiffening overseas competition have been devised. On the side of production techniques expansion of existing research and extension services has been a continuous aim of the Council and large sums of money have been made available. However, on problems of production policy, such as rural finance, irrigation, land settlement and land utilization with which the Rural Reconstruction Commission suggested the Council might need to concern itself, its public pronouncements, critics might suggest, have not been frequent or sufficiently positive. On such possible criticism the following observations may be made:

(a) Most of such matters come within the province of the State Governments and it would be mainly with specific proposals submitted by an individual State that the Commonwealth would be concerned, and then, most probably, as a problem in Commonwealth-State financial relations, which would not rest finally with the Agricultural Council.

(b) Even in the case of the Snowy River Mountains Scheme where three States and the Commonwealth are concerned the decision regarding the use which will be made of the irrigation waters has been left to the individual States. Whether this problem will be capable of satisfactory solution by them without taking into account the marketing problems likely to arise from increased production remains to be seen. Such marketing problems will almost certainly require joint consideration by the States and Commonwealth through the Agricultural Council. The Council in one of its Committees, namely, the Irrigation Production Advisory Committee, has a technical body especially created to watch and advise on such problems.

(c) It is interesting to note that in one of the press statements released by the latest (45th) meeting of the Council a carefully worded pronouncement drew attention to the marketing problems, especially with dairy products, and the problems of most profitable land use which could arise in connection with the use of newly available irrigation water.

(d) The Council has taken up the attitude that full responsibility for producers' production decisions must rest with themselves, but it has given a lead as to the lines along which the national interest lies; for example, in the announcement of production aims or goals for various primary industries in 1952 and more recently by specifically repudiating a policy of wheat acreage restriction advocated by certain marketing authorities and by some sections of producers' organizations.

(e) In the pre-war years the Council was concerned with an Australia-wide scheme of rural rehabilitation and it is conceivable that joint Commonwealth-State action to reconstruct sections of particular industries in chronic financial difficulties may eventuate in the future.

(f) Publicity by the Council is mainly confined to statements by the Chairman regarding specific recommendations. It has not regarded as its role to provide detailed and authoritative analyses of the position of agriculture in the general economy. However, its concern at the situation of agriculture in the later war and post-war years stemmed from detailed examination and appraisal of the facts. The adoption of the Production Aims in 1952 by the Council followed a detailed analysis of production levels and trends and of the situation which could arise if the trends in population, production and consumption were allowed to continue unaltered.

The great expansion in mineral production and in secondary industries in recent years connotes profound structural changes in the national economy which must be relevant to any balanced assessment of the future role of agriculture. This serves to illustrate and emphasise the importance of the role of the Council in the future.

(g) It is probable too that on broad issues with important repercussions beyond the agricultural sector, the Ministers comprising the Council are conscious of their individual Government's responsibilities beyond the agricultural sphere and of their own responsibilities to their State Cabinets and exercise caution correspondingly in making recommendations on such issues.

CONCLUSION

In conclusion it may be stated that marketing and production are opposite sides of the same coin so far as agriculture is concerned. While the constitutional position with respect to them remains as it is, the Australian Agricultural Council must remain of first-class importance for the promotion of sound national policies and for their smooth and efficient administration. The Council has signal successes to its credit during both war and peace, with respect to all the functions originally allotted to it and to Standing Committee.⁴

It has arranged for continuous review on a quarterly basis of production in all states and of marketing conditions and trends and for this and other relevant information to be exchanged between Commonwealth and State departments concerned. At meetings of the Council production and marketing trends are regularly and carefully reviewed.

Improvement in the quality of agricultural products and the maintenance of high-grade standards have been encouraged in two ways.

First by co-operation between the Commonwealth and States in carrying out inspection services in their respective spheres and by seeking uniformity of standards where practicable; secondly by advocating, and in some instances, financing, research aimed at raising quality in commodities produced. The Tobacco Grant is an example of the latter and considerable emphasis in the extension drive for increased efficiency in the dairy industry was placed on practices leading to higher-quality products.

With respect to international agreements, the initiative necessarily rests with the Commonwealth Government due to its constitutional functions and to the practical requirements of such negotiation. However, the Commonwealth has kept State Ministers informed of the agricultural implications of pending negotiations and, as far as practicable, of the progress of negotiations. In the case of F.A.O. it is not unusual for a State member of Standing Committee to be included in the Australian delegation to the biennial general Conference.

The Council, in peacetime, has not regarded it to be its proper function to make decisions regarding production which in a free economy rest with individual producers, but it has not hesitated to give clear indications, in the light of the best information available to it, as to the lines along which it considers the national interest lies. Such assessments take into account the desirability of balance between production and available markets. In making such judgments the close co-operation and mutual assistance of the States and Commonwealth is essential. The former supply first-hand and accurate knowledge of production trends and possibilities, while the Commonwealth is in close and continuous contact with the various marketing agencies and with marketing opportunities overseas.

For research and extension matters and for such purposes as quarantine and pest and disease control, Standing Committee has served as an invaluable co-ordinating committee for achieving co-operation. It has helped to forge close links between the States and C.S.I.R.O. with mutual gain and it has contributed in a very great degree to better practical administration of agricultural matters of joint concern to the Commonwealth and one or more of the States.

It is probably in the field of marketing, however, that the Council has made its most distinctive and important contribution to Commonwealth-State relations. A very brief description has already been given of the complexities and problems which the Council machinery helped to overcome in the Wheat Stabilisation Plan. With other industries, notably dairying, problems different but equally difficult, have been handled successfully as also in the case of tobacco. Even where solutions have still to be found, the Council and Standing Committee provide an excellent form to discuss proposals.

The Council now functions as a tested and proven piece of admini-

strative machinery. The expert competence of its technical advisory committees and the continuing research with which it is in close touch should ensure that its planning will be on a sound technical and economic basis. The knowledge, by the Council itself and by the governments it serves, of the importance and value of its work is a guarantee that that work will be continued with a corresponding sense of high responsibility. The friendly associations and mutual understanding which continuing association has produced at both Ministerial and official levels and the easy dignity with which the Council's proceedings are conducted make for dispassionate and constructive consultation and for workable compromise where unanimity is not possible.

If it is suggested that these facts in themselves do not guarantee vision and constructive statesmanship in the Council's approach to the future problems of Australian agriculture, it should be added that there is no reason to suppose such vision and statesmanship are less likely to be vouchsafed to agriculture's policy makers than to those of any other sector of the national economy. There is, in fact, good reason to believe, from the Council's record of achievement, that these qualities will mark its future deliberations.

part six | PARTIES AND PRESSURE GROUPS

Australian political parties have been well served by two political scientists, Professor Louise Overacker¹ and Mr. James Jupp,² but Australian pressure groups have been sadly neglected although it is generally agreed that the parties can be understood only in relation to their attendant pressure groups, their "syndicates" in Professor Miller's term. On three occasions the Australian Institute of Political Science summer schools have produced reports on the state of Australian parties: *Trends in Australian Politics* in 1935, *The Australian Political Party System* in 1954, and *Forces in Australian Politics* in 1963. In 1935 and 1963 papers by J. A. McCallum and P. B. Westerway gave particular attention to pressure groups, but apart from a few histories of primary producers' groups and some studies of trade unions in politics, they remain out of sight in the parties' back-rooms.

The papers by Professor L. C. Webb and Professor J. D. B. Miller on "The Australian Party System" and "Party Discipline in Australia" are concerned with broad questions, the relationship between the party and electoral system and the recurrent problem of the maintenance of discipline within parties. Dr. B. D. Graham and Professor R. S. Parker tell what is known about the role of financial interests behind the anti-Labor parties between 1910 and 1944, and whilst the Liberal Party denies that such a state of affairs exists today to understand the present structure of the Liberal Party it is necessary to know what it guards against. Professor R. M. Martin performs a similar service for the Australian Labor Party and its syndicates, the trade unions, although here the link is still vital. Finally Professor Keith O. Campbell and Mr. R. D. Freeman examine two major pressure groups areas, primary producers' and trade associations, and assess their importance to the interaction of polity and economy.

22 | THE AUSTRALIAN PARTY SYSTEM

L. C. Webb

The title of a recent report by a committee of the American Political Science Association—"Towards a More Responsible Two-Party System"—is one sign of a change of attitude in democratic countries towards political parties. In the past, parties have been studied in somewhat the same spirit as the pure scientist shows in the study of natural phenomena. That is, it has not been assumed that the purpose of study is to enable us to have better political parties any more than it has been assumed that the purpose of meteorology is to enable us to have better weather. Political scientists have regarded it as part of their proper function to propose schemes for the reform of the civil service, the Cabinet, Parliament, and local government but they have seldom looked upon parties as institutions which the political community is entitled to shape in accordance with its political ideals. The courts, it seems, have a similar view. In Australia, as we know from *Cameron v. Hogan*,¹ a political party is legally a private association on a par with a cricket club or an art society; the courts will not interfere with its management or mismanagement of its affairs on any plea of public interest but only on the meagre ground that the property interest of a member has been injuriously affected.

There may be a justification in expediency for leaving political parties free to develop without interference from courts and legislatures, and it can be admitted that attempts by political communities to control the development and functioning of political parties have not always been happy. But there can be no good reason for failing to take political parties for what they are—institutions with public responsibilities accountable to the community for the manner in which they discharge these responsibilities. In fact, the beginnings of such an attitude are perceptible in Australia. Three recent works on Australian politics—Sir Frederick Eggleston's *Reflections of an Australian Liberal*, Professor Overacker's *Australian Party System*, and Professor Crisp's *Parliamentary Government of Australia*—have in

common a disposition to measure political parties and the party system against certain norms of good government. But while it is healthy that parties should be judged critically and should be regarded as subject to control in the public interest, it is important for the critics to avoid the kind of empiricism which assumes that the task of bringing parties under social control is relatively simple. It is legitimate to say that a political party and, say, a civil service both exercise public functions and are therefore accountable for the manner in which they discharge these functions; but this one point of similarity, important as it is, should not obscure the fact that they are very different social entities. Public services are institutions created from outside to serve defined purposes; though in some measure they develop their own powers of growth and adaptation, their development is dictated largely by an externally imposed social policy. Political parties are spontaneous responses to needs seldom capable of precise definition; their development, up to the present, has been shaped by forces as yet imperfectly understood; and although a growing recognition of their importance in the processes of government is bringing them under critical judgment, it is still necessary, in the present state of our knowledge of their nature and functioning, to move warily in regulating their activities. In so far as we have political democracy, it has been made possible by party government, and it is therefore prudent to assume in the party system some degree of imminent wisdom. This, perhaps, is a long way of saying that those who want a better party system should begin by enquiring why the system is what it is.

Before the last war, substantial books on the origins and functioning of the party system could be numbered on the fingers of one hand. The last decade or so, however, has seen notable advances in this branch of political science. In France, Duverger has made the first satisfying investigation of the effect of electoral systems on the development and functioning of parties and Goguel and others have demonstrated the possibilities of electoral geography. In England the election surveys sponsored by the Nuffield Foundation have shown the party system in action. In the United States sociologists and social psychologists have investigated the influence of social class and status on party membership and structure.

The purpose of this paper is to suggest the possible bearing of some of this recent research on the Australian situation. I hope to show that Australian parties do constitute a system, to show also how this system arose, and to indicate some of the influences which govern its working. Finality, as Disraeli remarked, is not the language of politics, and in any case so little work has been done in Australia on the history, structure, and interaction of political parties that an essay written now can be no more than a set of hypotheses for subsequent workers to demolish.

Even my first proposition, which is that Australia has a two-party system, is open to argument. Professor Lipson, while recognizing that minor parties can exist in a two-party system, holds that once a minor party succeeds in holding the balance between the principal contenders the two-party system ceases to exist.² This, he contends, has been the situation in Australia since the emergence of the Country Party. For reasons which I will develop later, I believe that this both misconceives the nature and functioning of the Country Party and defines the two-party system too narrowly.

It is clear that a two-party system had emerged in federal politics at the end of the first decade of federation, and it will be useful to begin by enquiring why it emerged and why it took the form it did.

ORIGINS OF THE TWO-PARTY SYSTEM

In the first three Commonwealth Parliaments members were divided into three fairly even groups—Protectionist, Free Trade, and Labour.³ The first two groups were not political parties in the present sense of the term; they had no permanent electoral organization, their discipline was loose, and they did not have programmes relevant to the whole range of political issues. To some extent, moreover, their basis was regional as well as ideological. The Free Traders represented mainly the commercial interests of New South Wales. The Protectionists had their main strength in Victoria, where the Liberal Party and the trade unions had formed a political alliance some twenty years previously. A substantial section of the Protectionist group was therefore Liberal and even radical on issues of social reform.

The Labour Party, drawing its strength principally from New South Wales and Queensland, was in strong contrast to the Protectionist and Free Trade groups; it had a permanent organization based on the trade union movement and a tight discipline. Its principal difference from the Labour Party of today was that, although it had a general programme, it was still an interest party. "The members of the Labour Party," said one of its members, "receive the support of the wage-earning class chiefly, because their interests in the past have been neglected. We are here to definitely voice their requirements, and chiefly because the needs of other sections are very carefully studied by other honourable members."⁴

In this period the normal basis for a government was the similarity of outlook between Labour members and the more radical wing of the Protectionists. When the tariff issue was dominant the Protectionist could usually form a government with the support of those Labour members who favoured protection. When there was peace on the tariff front and issues of social reform or labour legislation were dominant the common radicalism of the left-wing Protectionists and

the Labour Party gave the Ministry a majority in the House. In the politics of this period it was men and policies that counted. A sense of the importance of the federal experiment drew to the Commonwealth Parliament men of powerful and independent minds. It was, moreover, a period in which great issues were decided. The tariff battle was resolved in favour of the Protectionists, the system of compulsory arbitration of industrial disputes was completed by its extension to the Commonwealth sphere, a national defence policy related to a wider Imperial defence policy was initiated, and the machinery of federal government was brought into being and principles of Commonwealth-State relations worked out. Historians have perhaps been too ready to regard the period as one of instability and confusion and the movement towards the two-party system as a desirable development in the direction of a more responsible government. Yet government based on loose and shifting alliances was in some respects well suited to the formative years of the Commonwealth. It may have been a disadvantage that no government was ever sure of its term of office, but it was wholly advantageous that, as each national issue arose, the predominant parliamentary opinion on that issue was effectively expressed.

During this first decade of the Commonwealth Parliament, elections to the House of Representatives (with the partial exception of that of 1901) were by simple majority and single member constituencies. According to a widely accepted theory, this electoral method tends, by a combination of mechanical and psychological factors, to the establishment of a two-party system. That is, the progressive under-representation of weaker parties ultimately brings electors to the view that a vote is ineffectual unless cast for one of the two main parties. At first sight, electoral results in the first three Commonwealth elections

TABLE 1*

	Percentage of votes	Percentage of seats	Average of votes per seats won
<i>1903:*</i>			
Free Trade	31.8	34.7	8,817
Protectionist	28.4	33.3	8,196
Labour	30.4	30.7	9,521
Liberal	6.2	1.3	44,562
<i>1906:</i>			
Free Trade	28.5	26.7	13,573
Protectionist	23.7	28.0	10,737
Labour	36.4	32.0	14,438
Independent	.1	—	—
Tariff Reform	11.3	13.3	10,736

*The 1901 election was not conducted on a uniform franchise; no comparison, therefore, can be made of voting strengths and percentage of seats won.

do not support this theory, since the main groups remained fairly even in both electoral support and parliamentary representation.

The explanation of the relative stability of the main groups appears to be that the under-representation theory of the origins of the two-party system applies only to a situation in which three or more nationally-organized parties are contesting most of the electorates. This was not the situation in the Commonwealth elections of 1901, 1903, and 1906. Only the Labour Party had a permanent central organization and it was as yet contesting only those electorates with substantial working-class populations. The Protectionist and Free Trade groups were not political parties in the present-day sense of the term and their strength was to some extent regionally concentrated. The movement towards the two-party system in Commonwealth politics paralleled, and was in part caused by, the development of the modern type of party organization. In most of the States the two-party system had already emerged and Australian electors were therefore already aware of the consequences of three-cornered contests under the system of single-member constituencies with majority voting. Moreover, by the middle of the decade, the Free Traders found themselves in the position of a minority attached to a lost cause. Reid's "Socialist tiger", paraded in the election of 1906, was the outcome of his search for a *raison d'être*.⁵ Finally, the decision of the Brisbane Labour Conference of 1908 to forbid Labour parliamentarians to enter political alliances spelled the end of government on the basis of group combinations.⁶ Men like Groom might protest against the assumption that government by alliances was "absolutely fatal to the administration of responsible government under our Constitution",⁷ but Deakin's metaphor of the three cricket elevens seems to have expressed the majority opinion.⁸

The more interesting question is not why the system of government by alliances gave way to the two-party system, but why the two-party division did not follow what appeared to be the natural line of cleavage. As we have seen, the common radicalism of the Labour Party members and a group of Protectionists was the real basis for majority government in the first decade of the Commonwealth parliament. Moreover, in both Victoria and New Zealand an alliance between Liberals and trade unionists had formed the basis for a mass party of the Left. Why, then, did not the Commonwealth parliamentary situation resolve itself on similar lines? Deakin, for one, had assumed as early as 1908 that this would be the course of events and had offered to withdraw from the leadership of his group in favour of Sir William Lyne in order that the latter might negotiate an alliance with Labour.⁹ By this time, it should be noted, the tariff issue has ceased to be a real point of difficulty between the Protectionists and the Labour Party, since Deakin's "new protection" policy, in spite of the obstacles im-

posed by the High Court, had converted most Labour members to protectionism. The real reason for the unnatural alliance between the Protectionists and the Free Traders lay in the fact that the emergence of a separate Labour Party had destroyed the possibility of a Liberal-Trade Unionist Party on the Victorian and New Zealand pattern. For, although the social Liberalism of men like Deakin and Groom would have enabled them to accept most of the Labour Party's programme, they had also inherited enough of an older tradition of Liberalism to make the Labour Party's tight discipline and intolerance of dissent entirely unacceptable to them. The fusion of 1910 marked the end of the politics of men and principles and brought in the politics of party machines and interest groups.

One other aspect of the fusion deserves notice. The political faith of Deakin and his followers was Liberalism adapted to the Australian environment; from nineteenth-century English Liberalism they had inherited a belief in the freedom and dignity of the individual as the touchstone of all political action, but the realities of the colonial environment had saved them from the dogmatic attachment to *laissez faire*, which, by the end of the nineteenth century, was causing English Liberalism to lose the initiative in social reform. The weakness of this creed, it may be suspected, was that it came too close to expressing the political faith of the middle block in Australian politics and therefore afforded no basis for a two-party system. There is some confirmation for this point of view in the events preceding the 1910 election. Early in 1909, knowing that some sort of political consolidation was imminent, Deakin set out on a tour of the eastern States with the intention of stimulating political organization among his supporters.¹⁰ The result of his tour is thus described in a letter to his sister:

All the information gained confirmed my pessimistic outlook from an electoral point of view, though I was gratified to find our policy popular everywhere and, broadly speaking, with all classes. But this very encouraging state of mind promised nothing to us as a party. In each State a decisive rally is being made against the Labour caucus, and the old Opposition, being everywhere at the head of it, has those who sympathize with our views working with them for each local fray. We could not dissociate them for federal constituencies without a new organization of their own, which they dreaded, lest it should divide the vote against Labour. Hence there was no place for us or our organizations except in the very few electorates we already held. . . .¹¹

The fusion of 1910 was the beginning of a split in Australian Liberalism. In so far as it was individualist, it became absorbed in the party of the right; in so far as it was radical and empirical it became absorbed in the Labour Party. But the great non-existent centre party of Australian politics, determining the general trend of political action, has remained in the Deakin tradition of Liberalism. Duverger, who

has done more than any other political scientist to clarify the relationship between electoral systems and political parties, has noted the paradox that, although the single-member constituency system prevents the emergence of an organized centre party, nevertheless "the centre influences the whole parliamentary life of the country".¹²

THE TWO-PARTY SYSTEM IN ACTION

For four elections after the fusion, Australia had an orthodox two-party system. Table 2 shows the percentage of total valid votes cast for each party and for independent candidates and also the percentage of seats won by each group.

TABLE 2

	Non-Labour		Labour		Independents	
	Percentage of votes	Percentage of seats	Percentage of votes	Percentage of seats	Percentage of votes	Percentage of seats
1910	45.1	41.3	49.6	56.0	5.3	2.7
1913	48.9	50.7	48.5	49.3	2.6	—
1914	47.2	44.0	50.9	54.7	2.0	1.3
1917	54.2	70.7	44.5	29.3	1.3	—

We have here a good example of the tendency of the system of single-member constituencies with the simple majority vote to over-represent the party with the highest percentage of total votes and so to under-represent third parties and independents that the elector's effective choice must lie between the two major parties. Thus, with 54.2 per cent of votes in 1917, the non-Labour party won 70.7 per cent of seats, whereas 48.9 per cent of votes in 1913 won it only 50.7 per cent of seats. The decline in the percentage of votes cast for independents during the period is also significant, as also is their virtual elimination from political life. The main objective of the fusion—the establishment of a stable two-party system—had, it seemed, been fully achieved.

In 1919, however, the electoral law was changed in a manner which has profoundly affected the development of the party system. During the First World War the farming interest in Australia, as in several other countries, had become convinced of the need for independent political action. What would have happened if the Australian Country Party had been allowed to struggle for existence within the framework of the then existing electoral law is a matter for speculation. Possibly, like the New Zealand Country Party, it would have been strangled in infancy by the simple majority system; alternatively, it might have won a secure but restricted existence as a regional party similar to the Irish

Nationalists. But it so happened that in a by-election in 1918 for the Victorian electorate of Flinders the Australian Country Party put up a candidate and thereby threatened to wreck the chances of S. M. Bruce, at that time the rising hope of the non-Labour forces. The Nationalists bought a straight fight for Bruce with a promise to introduce preferential voting.¹³ Admittedly, the change commended itself to many on the non-Labour side who were repelled by the rigidity of party discipline and who hoped that preferential voting would do away with the pre-selection of candidates. It may be, indeed, that the introduction of preferential voting was less a matter of chance than the surface facts seem to indicate and that Australian political opinion was too varied and vigorous to be contained within the orthodox two-party system. The merit of preferential voting seemed to be that it enabled parties to relax their discipline without seriously compromising their electoral prospects.

PREFERENTIAL VOTING AND THE PARTY SYSTEM: 1919-1929

Two main difficulties are encountered in any attempt to assess the effect of preferential voting on the party system, the first is that there is a continual danger of confusing cause and effect. Obviously electoral laws do influence the functioning of parties and their interaction; but over the long period it may reasonably be assumed that the party system tends to get the electoral system best suited to its needs. The second difficulty is that, at different periods, preferential voting appears to produce different effects.

It is clear, for instance, that the elections of 1919, 1922, 1925, 1928 and 1929 constitute a fairly homogenous group, in which the preferential voting system had the effects intended by its authors. Though parties did not abandon pre-selection, the number of candidates increased significantly. In the four elections between 1910 and 1917, the highest number of candidates was 162 in 1910 and the lowest 140 in 1914. In the five elections between 1919 and 1929, the lowest number of candidates was 150 in 1928 and the highest 199 in 1922. This increase is only partly accounted for by the emergence of the Country Party, and a closer examination of election returns suggests that preferential voting gave some encouragement to independents and to unendorsed party candidates. The two main parties did not, however, substantially modify their pre-selection systems, though the Country Party adopted multiple endorsement. It is also noticeable that, whereas between 1910 and 1917 the total vote for independent candidates dwindled rapidly, it increased substantially in 1919 and, with the excep-

tion of the 1925 election, remained at above 3 per cent. It may be assumed that preferential voting, by lessening the dangers of vote splitting, somewhat lessened the reluctance of electors to vote for independents.

But the most noticeable feature of this period is the apparent ease with which the two-party system, assisted by preferential voting, accommodated itself to the existence of the Country Party. In the 1919 election, for instance, the Country Party contested seventeen seats and won eleven; of the seventeen seats contested, eight were also contested by Nationalist candidates. In the three-cornered contests, exchange of preferences between Nationalist and Country Party candidates was highly effective. In five cases where the result was decided on preferences the highest leakage was twelve per cent and the lowest three and a half per cent. This is the pattern for the period; it was only rarely that non-Labour lost seats through vote splitting, and on the whole the two main party machines seem to have had the situation fully under control.

But even in this period it is clear that preferential voting was not wholly effective in eliminating vote splitting. Since there is always some leakage of preferences—the average in three-cornered contests decided on preferences may be about five per cent—it was still necessary for the two non-Labour parties to seek the elimination of one of their candidates in electorates where non-Labour and Labour are evenly balanced. Moreover, it is noticeable that the leakage of preferences usually increases substantially when the number of candidates rises above three. Thus, in 1922 Riverina was contested by a Labour candidate, a Nationalist candidate, and two Country Party candidates. The seat was won by a Country Party candidate but the preferences of the Nationalist candidate and of the other Country Party candidate revealed a leakage of 16.5 per cent to Labour.

The first-preference voting figures for the period are analysed in Table 3.

TABLE 3
(Country Party figures in brackets)

	Non-Labour		Labour		Independents	
	Percentage of first preference votes	Percentage of seats	Percentage of first preference votes	Percentage of seats	Percentage of first preference votes	Percentage of seats
1919	53.8 (8.4)	62.7 (14.7)	41.5	34.7	4.7	2.7
1922	50.9 (12.9)	60.0 (18.7)	43.8	38.7	3.4	1.3
1925	53.7 (11.6)	69.3 (20.0)	44.7	29.3	1.7	1.3
1928	51.9 (12.0)	57.3 (18.6)	44.8	41.3	3.3	1.3
1929	44.6 (11.3)	33.2 (14.6)	48.8	61.3	6.1	5.3

If for the moment we regard the Nationalist and Country Parties as constituting one political group, it is clear that, in this period, preferential voting gives a pattern not essentially different from simple majority voting. That is, the group which is stronger in terms of votes is relatively over-represented, and its over-representation is the more pronounced the higher its share of the votes. For instance, the non-Labour group in 1925 received less than 54 per cent of total votes but won nearly 70 per cent of seats. In 1929, however, its share of total votes fell to just under 45 per cent, but its share of seats fell to only a third of the total. On the evidence of the elections from 1919 to 1929, then, preferential voting, although it encourages independents and unendorsed candidates, does not modify the law of under-representation of weaker parties.

PREFERENTIAL VOTING AND THE PARTY SYSTEM: 1931-1946

The pattern of Australian politics in the elections of 1931, 1934, 1937, 1940, 1943 and 1946 is dramatically different from that in the five preceding elections. In 1931 the Labour Party split under the strains imposed by the economic depression. In New South Wales there was open conflict between the State Labour machine and the Federal Labour Party, and in addition the Labour cause was further divided by the emergence of other minor parties, including the Communist Party and the Social Credit Party. About 1938 the process of disintegration spread to non-Labour and was characterized by frequent independent candidates and by the emergence of a litter of minor parties, including the One Parliament for Australia Party, the Services and Citizens Party, and the Liberal and Democrats. As might be expected, the total of candidates rises steeply in this period—229 in 1931, 237 in 1934, 190 in 1937, 268 in 1940, and 327 in 1943. In the 1943 election there were eleven parties in the field, in addition to an exceptionally large number of independents and United Australia Party candidates secured little more than 16 per cent of the total first-preference votes.

The record of the preferential voting system in this period is an interesting one. In New South Wales Labour had won 20 out of 28 seats in the 1929 election; in the 1931 election, the conflict between State and Federal Labour machines lost it 13 of these seats. Preferential voting was largely ineffective in preventing vote splitting, for although 90 per cent and over of State Labour preferences went to Federal Labour, there was little reciprocity. Barton, which was contested by U.A.P., State Labour, and Federal Labour, was won by U.A.P. because over one-third of the Federal Labour preferences went to U.A.P. In East Sydney, State Labour could have won the seat with only 57 per cent of Federal Labour preferences, but in fact over 50

per cent of Federal Labour preferences went to U.A.P. In Macquarie, on the other hand, State Labour preferences were distributed 94 per cent to Federal Labour and 6 per cent to U.A.P.; however, 97 per cent of State Labour preferences would have been required to elect the Federal Labour candidate. In Newcastle over 90 per cent of State Labour preferences went to the Federal Labour candidate, thereby securing his election.

The pattern of preference voting on the Labour side in subsequent elections of this period is similar to that for 1931, and the conclusion which emerges is that the Labour side is relatively unsuccessful in using the preferential voting system as a means of preserving its electoral strength in a period of structural disunity. The contrast in the allocation of State and Federal Labour preferences in 1931 is at first sight somewhat puzzling. Two causes seem likely. The first is that State Labour, being further to the left than Federal Labour, would be less likely to countenance the giving of preferences to the right; the second is that the Federal Labour Party conceived itself to be fighting for the unity of the movement as a whole and would therefore be likely to regard a victory for a rebel as a greater evil than the loss of a seat. In this connection it is relevant to note that whereas about 80 per cent of the preferences of Communist candidates normally go to Labour, only a very small percentage of Labour preferences go to Communist candidates. Indeed, the preferential voting system reveals clearly the extent to which the Labour Party's exclusiveness and its insistence on formal unity impede the mobilization of the varied political interests which lie to the left of the centre.

Non-Labour's use of the preferential voting system in this period is considerably more effective. The contrast with Labour is exemplified in the New South Wales electorate of Lang, which in 1931 was contested by State Labour, Federal Labour, and two U.A.P. candidates. Lang had been won by Labour in 1928 and 1929; it was lost to non-Labour in 1931 because, whereas 93 per cent of the weaker U.A.P. candidate's preferences went to the other U.A.P. candidate, only about two-thirds of Federal Labour preferences went to State Labour. But even on the non-Labour side the leakage of preferences increases with the number of candidates, and in elections such as those of 1943 and 1946, when parties proliferated on the right, the preferential voting system did not save the right from a substantial loss of voting strength. These two elections mark the peak of factionalism in Australian politics, and there are occasional cases of dissident Labour candidates being elected on Liberal preferences. In Reid, in 1946, J. T. Lang received 80 per cent of Liberal preferences, and in Bourke in the same year Mrs Blackburn received over 80 per cent of Liberal preferences.

Table 4 analyses the election returns for the period.

TABLE 4
(Country Party figures in brackets)

	Non-Labour		Labour		Independents	
	Percentage of first preference votes	Percentage of seats	Percentage of first preference votes	Percentage of seats	Percentage of first preference votes	Percentage of seats
1931	53.2 (10.6)	74.6 (21.3)	38.2	24.0	7.8	1.3
1934	49.8 (13.5)	63.5 (20.3)	48.2	36.5	2.0	—
1937	49.7 (16.2)	60.8 (23.0)	45.9	39.2	4.4	—
1940	44.9 (13.8)	51.3 (18.9)	48.0	48.6	7.0	—
1943	35.8 (8.4)	32.4 (13.5)	53.0	66.2	11.1	1.4
1946	45.4 (11.4)	39.2 (14.9)	52.8	59.5	1.8	1.3

These figures bring out a tendency which is also perceptible in the preceding period—the tendency of non-Labour to be relatively over-represented by comparison with Labour. Thus, with 53.2 per cent of votes in 1931 non-Labour won 74.6 per cent of seats; with about the same percentage of votes in 1943 Labour won only 66.2 per cent of seats. The reason for this discrepancy will be discussed later.

THE ROLE OF THE COUNTRY PARTY

Before discussing in general terms the effects of preferential voting on the party system, it seems appropriate to consider what light is thrown on the rôle of the Country Party by the facts we have been considering. The Country Party has lately become the whipping-boy of Australian politics. Sir Frederick Eggleston,¹⁴ Professor Overacker,¹⁵ and Professor Crisp¹⁶ have all admonished it for opportunism and the *Sydney Morning Herald*¹⁷ has recently recommended it to eliminate itself in the interests of good government. I will not venture to justify political opportunism, beyond remarking that if we are to make it a ground for eliminating politicians and parties it will be hard to know where to stop. But I will venture to suggest, on the strength of the voting figures for the periods we have been considering, that the rôle of the Country Party has not been adequately understood.

If we consider the Country Party figures in Tables 3 and 4 one striking fact emerges: the Country Party's percentage of seats won is higher in every election it has contested, and sometimes substantially higher, than its percentage of the total of first-preference votes. This picture is even more striking if (as has been done in the next table) we calculate the number of votes which (on average) a party requires to win a seat.

These figures considerably illuminate our previous generalization

TABLE 5

	Percentage of first preference votes	Percentage of seats	Average of first preference votes per seat won
<i>1919:</i>			
Labour	41.5	34.7	30,455
Nationalist	45.4	48.0	24,065
Country Party	8.4	14.7	14,542
Independent	4.7	2.7	45,525
<i>1922:</i>			
Labour	43.8	38.7	23,765
Nationalist	36.1	36.0	20,965
Country Party	12.9	18.7	14,452
Liberal	3.9	5.3	15,445
Independent	3.4	1.3	53,137
<i>1925:</i>			
Labour	44.7	29.3	59,214
Nationalist	42.1	49.3	33,201
Country Party	11.6	20.0	22,470
Independent	1.7	1.3	48,413
<i>1928:</i>			
Labour	44.8	41.3	37,340
Nationalist	39.9	38.7	38,290
Country Party	10.4	17.3	20,597
C.P. Progressive	1.6	1.3	41,713
Independent	3.3	1.3	84,273
<i>1929:</i>			
Labour	48.8	61.3	30,570
Nationalist	33.3	18.6	74,648.5
Country Party	10.3	13.3	29,782
Independent	6.1	1.3	176,730

that non-Labour tends to win its seats less expensively in terms of votes than Labour and therefore to be over-represented in relation to Labour. The usual explanation of this tendency is that Labour voting strength is heavily concentrated in certain working-class metropolitan seats and in the mining-pastoral seats. But if the Country Party figures are considered separately, it becomes apparent that the over-representation of non-Labour is due largely (though not wholly) to the very heavy over-representation of the Country Party. The position seems to be that the Country Party contests a limited number of seats, most of them in the wheat belt and the small farming areas, and most of them only marginally attached to non-Labour. If the Country Party did not contest these seats, some of them would probably be lost to non-Labour. That is, by virtue of its ability to mobilize the country interest, the Country Party enables non-Labour to win more seats than would be possible if there were only one non-Labour Party.

If this view is correct, it follows that the Country Party is not an

orthodox third party in the sense understood by Professor Lipson, but is more in the nature of a regional and autonomous extension of the main non-Labour Party. It does not, as Professor Lipson suggests, "hold the balance between the main contenders", for although it has a certain bargaining power its freedom of action is limited by two considerations.¹⁸ The first is that (except in Victorian State politics, where it is in some respects a different party) the Country Party cannot be regarded as free to switch its allegiance at will between Labour and non-Labour. Its whole policy line has always been anti-Labour, its leaders have always been careful to emphasize its loyalty to composite non-Labour governments, and in any case the Labour Party's rules prevent it from entering alliances. In the second place, the introduction of list voting in Senate elections means that the Country Party, if it hopes to get Senate representation, has little option but to enter into an alliance with a party organized in all electorates. In its 34 years of representation in the Commonwealth Parliament, the Country Party has not once overthrown a government of the right, and it may be suspected that its disintegration would begin on the day that it attempted to do so.

THE CONSEQUENCES OF PREFERENTIAL VOTING

Preferential voting, as we have seen, was introduced mainly in order to prevent the main party of the right from being weakened by the emergence of the Country Party and also with some thought that it might do away with or modify the system of pre-selection of candidates. The first purpose appears to have been achieved, though it is at least questionable whether preferential voting is a necessary condition of the Country Party's existence as a minor party within what is essentially a two-party system. If the analysis of the Country Party's role in the preceding section is valid, it may reasonably be argued that the Country Party could continue as a regional party by virtue of its ability to win certain country seats which the main party of the right would not be able to win.

The effect of preferential voting on pre-selection practices has been slight. Though the Country Party allows multiple endorsement, the two main parties have maintained rigid pre-selection systems. The U.A.P. allowed multiple endorsements in 1940, but only because it was so disunited that it was compelled to do so. However, although preferential voting has had little effect on pre-selection systems, it has obviously weakened the capacity of the main parties to enforce party discipline and to prevent splinter parties and unendorsed and independent candidates from entering the election field.

To what extent, then, can the notorious factionalism of Australian politics be attributed to preferential voting? The striking difference

between the 1919-29 and 1931-46 periods is a warning against hasty generalization. In the first period, though independent candidacies increased, there was no noticeable tendency for parties to splinter or—apart from the Country Party—for new parties to emerge. On the other hand, it would be difficult to attribute the splintering and factionalism of the period between 1931 and 1946 solely to the inability of the Labour Party to meet the challenge of the economic depression. In the United Kingdom and New Zealand, and indeed in most countries with two-party systems, the party in power at the onset of the depression tended to disintegrate. But the disintegration lasted for a comparatively short time. In Australia, the splintering process went on for fifteen years, with a brief interlude of stability in the period of the 1937 election. It is thus difficult to avoid the conclusion that preferential voting, because it lessens the fear of vote splitting, greatly reduces the two-party system's capacity to resist factionalism and greatly extends the time the system takes to recuperate after a major fission.

The history of the State Labour revolt in New South Wales seems to support this conclusion. Splits of this sort are common enough in Labour movements, but with the system of single-member constituencies and simple majority voting the consequences of vote splitting are such that the left has a choice between unity and overwhelming electoral defeat. But preferential voting, even though the rival Labour factions were not able to work out an effective arrangement for the exchange of preferences, still enabled Labour to avoid overwhelming defeat. This at least partly explains why State Labour won four New South Wales seats in 1931 and nine in 1934 and why in a somewhat different form, this faction reasserted itself later.

The two-party system, then, is weakened by preferential voting. But it remains a two-party system. Like proportional representation, preferential voting encourages the multiplication of parties; but since it mitigates without eliminating the dangers of vote splitting it does not (as proportional representation does) enable a multiplicity of parties to exist. (The special case of the Country Party has already been considered.) The analyses of electoral returns given in this paper show that, with single-member constituencies, the substitution of preferential voting for simple majority voting does not appreciably diminish the tendency of the system to under-represent the weaker of two major parties and so greatly to under-represent third, fourth and fifth parties that their position is virtually hopeless. The figures for the 1931 election are a good illustration of this point (Table 6).

The other important effect of preferential voting, already noticed, is to give an appreciable advantage to the non-Labour parties because they combine a tolerance of dissent with an underlying sense of community of interest. Because the Labour Party dislikes deviationists

TABLE 6

	Percentage of first preference votes	Percentage of seats	Average of first preference votes per seat won
<i>1931:</i>			
A.L.P.	27.1	18.7	61,390
State Labour	10.6	5.3	83,830
U.A.P.	42.6	53.3	33,751
Country Party	10.6	21.3	23,040
Communist	.3	—	—
Independent	7.8	1.3	250,060

more than it dislikes its opponents of the right, it cannot get much advantage from preferential voting.

The record of preferential voting in Australia is not, I suggest, an impressive one. It has stimulated faction and intrigue but it has not removed or mitigated any of the bad features of the two-party system—its tendency to avoid issues rather than to face them, its insensitivity to new currents of opinion, and its under-representation of minority interests. The minor parties which emerged in the period between 1931 and 1946 were short-lived and sterile; they added nothing to Australian political life except confusion and corruption.

THE SOCIAL BASIS OF THE TWO-PARTY SYSTEM

My argument could, at this stage, be summarized somewhat as follows: Australia has a two-party system which is the result in part of a popular belief that no other system is compatible with responsible government and in part of the tendency of single-member constituencies to eliminate minor parties; the distinctive features of the Australian two-party system are in part due to the adoption of preferential voting.

The importance of electoral laws in explaining party systems lies in the fact that the purpose of political parties is to win elections. Electoral laws are, as it were, the rules of the party battle and they must therefore be a principal determinant of party behaviour. But it is obvious that they are only a partial determinant; in some measure, party behaviour must be a result of other forces, including the structure of society itself. Most people are, in this matter, unconscious Marxists; even if they do not adopt in its wholeness the theory of parties put forward in the opening passages of the "Communist Manifesto",¹⁹ they assume some relationship between party and social class. A recent French writer on party systems, for instance, makes the statement that the Liberal and Labour parties in Australia correspond roughly to the division between the bourgeoisie and the proletariat.²⁰

"All parties are class parties;" says Mr. A. L. Rowse, "they represent an agglomeration of class-interests, and if you seek the motive force of their policy you must look to their centre of gravity, which is in class."²¹

The difficulty about these generalizations concerning the relationship between class and party is that the moment we try to extract a precise meaning from them we find that it is impossible to attach a clear and agreed meaning to the term "class". We can, however, get some clarification of the problem by laying hold of a proposition which is common to almost all theories of class—that a person's occupation imposes on him certain attitudes in regard to social and political issues,²² or, more simply, that if we know something about a person's occupation we know something about his political opinions. The surveys carried out by Australian Public Opinion Polls make possible a rough test of this hypothesis. Tables 7 and 8 indicate the relationship between party voting and occupational status in the elections of 1951 and 1953.

TABLE 7
Survey 79—30 March 1951:

Occupational Groups	How they said they voted at the 1949 Federal Election			How they said they would vote at the 1951 Federal Election		
	Labour	Non-Labour	Ind.	Labour	Non-Labour	Ind.
	%	%	%	%	%	%
Professional, and business owners and managers	11	89	—	15	85	—
Owners of small businesses	43	57	—	46	53	1
White collar workers	39	61	—	34	64	2
Skilled workers	61	38	1	64	36	—
Semi-skilled	68	32	—	68	31	1
Unskilled	79	21	—	81	19	—
Farmers	15	85	—	18	82	—
Farm Labourers	47	52	1	53	47	—

It is important to note that these tables indicate, not actual voting, but expressions of intention to vote in a particular way and assertions of having voted in a particular way. It is consequently probable that the preponderance of non-Labour voting at the top of the occupational scale and of Labour voting at the bottom of the scale are somewhat exaggerated. It is likely that more unskilled workers will vote non-Labour than will admit they voted non-Labour. The pattern

TABLE 8
Survey 94—10 April 1953:

Occupational Groups	How they said they voted at the 1951 Federal Election			How they said they would vote at the 1953 Senate Election		
	Labour	Non-Labour	Ind.	Labour	Non-Labour	Ind.
	%	%	%	%	%	%
Professional, and business owners and managers	20	80	—	22	78	—
Owners of small businesses	58	41	1	60	38	1
White collar workers	48	51	1	53	46	1
Skilled workers	70	30	—	77	23	—
Semi-skilled	75	25	—	78	22	—
Unskilled	85	14	1	89	10	1
Farmers	28	72	—	31	68	1
Farm Labourers	64	36	—	67	33	—

shown in these tables is, it should be added, similar in its main outline to the patterns revealed by similar investigations in the United States and the United Kingdom.

Most people will say that they do not need public opinion polls to tell them that most unskilled workers vote Labour; but although the facts may be obvious, their bearing on the functioning of political parties and the party system may be less obvious. For the fact that most unskilled workers vote Labour is less significant than the fact that one in five does not vote Labour. Putting it more generally, Australian political parties do not get overwhelming support from any one occupational group. The same phenomenon has been noted in England; a recent survey of the relationship between voting and occupation in the Greenwich area shows that what is conventionally described as a “solid working-class area” is one in which there is a 70-30 preponderance of Labour votes.²³ An American political scientist has drawn the following conclusion from similar correlations between voting and occupation in the United States:

Usually even under favourable circumstances 60 per cent or 70 per cent of any group is the maximum response that can be elicited in political agitation. All political organization is subject to a law of imperfect mobilization of social interests, the consequence of the fact that each individual person has many interests and belongs to many groups.²⁴

The fact that political parties get some support from all occupational groups but cannot fully mobilize the support of any one group is one of

the main influences determining policies and electoral appeals. If, for instance, the Labour Party were to base its election programme exclusively on the interests of trade unionists, it would not greatly increase its trade-union vote and would almost certainly lose heavily in support from other groups. More and more, in the two-party system, parties are coming to realize that safety lies in general appeals; for not only do gains secured by appeals to group interests tend to be self-cancelling, but identification with group interests diminishes the party's freedom of manoeuvre.

These considerations go some way towards explaining why, in Australia, the Labour Party has been relatively less successful than the main parties of the right in mobilizing electoral support. We have seen that, in the first decade of the Commonwealth Parliament, the Labour Party was in fact and professedly an interest party. It was able to function as an interest party only because, in the absence of the two-party system, it could wield effective political power by holding the balance between the Free Trade and Protectionist groups. When the Brisbane Labour Conference of 1908 vetoed political alliances and thereby hastened the emergence of a two-party system, it created for the political wing of the Labour movement a dilemma which it has not yet resolved. Henceforth, the Labour Party could only achieve power by becoming the mass party of the left and it could only do so by ceasing to be an interest party. From one point of view, the whole history of the Labour Party since the election of 1910 has been the history of a conflict between the efforts of the trade unions to preserve the original character of the Labour Party as the political expression of the industrial labour movement and the efforts of Labour politicians to win that freedom of manoeuvre which alone will enable them to gain political power. Sir Frederick Eggleston, in his *Reflections of an Australian Liberal*, makes the claim that the Liberal Party has always been better able to express the mind of the Australian people than the Labour Party has. This is a statement which could be variously interpreted, but if it means that the Liberal Party, being less securely anchored than the Labour Party to a single interest group, is better able to adopt its policy to changing circumstances and currents of opinion, I would agree with it. In the forty-three years since the two-party system established itself, the Liberal Party has held office for over twenty-eight years. This is partly due, as we have seen, to the tendency of the electoral system to under-represent Labour, but it is due also to non-Labour's greater freedom of manoeuvre.

The tension between the political and industrial wings of the Labour movement brought about by the demands of the two-party system is, I believe, a pointer to the significance of that very remarkable feature of the Australian labour movement—the A.L.P. industrial

groups. The industrial groups are commonly regarded as a counter to Communist influence in the unions—which no doubt they are. But recent statements by Labour leaders put the groups in a somewhat different light. Dr. Evatt has said that group control of the unions is necessary to ensure that future Labour governments will not be embarrassed, as Mr. Chifley's government was in 1949, by the indiscipline of trade unions; and an official Labour publication, commenting on the success of the groups in gaining control of certain unions, claimed that this meant the re-affiliation of 80,000 unionists with the Labour Party.²⁵ We are, it seems, witnessing the reverse of the process whereby, towards the end of last century, the trade unions created a political party and then sought to keep it under control. Today the political party is reaching back and seeking to control the unions, hoping thereby to win the independence without which it cannot be fully effective as the party of the left in a two-party system.

The outcome of this curious process may be somewhat different from what the political wing of the Labour movement intends. Mr. Star-gardt, in his edition of Mr. Chifley's speeches, has remarked that a struggle is in progress for the soul of the trade-union movement.²⁶ It is at least possible that the trade-union movement, following a clearly defined trend in the United Kingdom and New Zealand, may prefer to have a soul of its own. Now that the battle for trade-union rights has been won, and full employment accepted as a part of national policy, the case for trade unions identifying themselves with one political party is at least open to argument. Most trade-union leaders would agree that their task is never more difficult than when a Labour government is in power.

CONVERGENCE ON THE CENTRE

It might seem inappropriate to end a discussion of the Australian party system without some reference to party policies, but with the progressive watering down of the Labour Party's socialism, it has become difficult for the student of politics to point to anything more than differences of emphasis in the party programmes. To some extent, as we have seen, there is a tendency in all two-party systems for the main parties to converge to the centre. This is due partly to the fact that, in the two-party system, it is only the voters of the centre who have an effective choice, and it is therefore to the centre that the parties must direct their appeal. It is due also to the fact that a party is not likely to achieve more than a 70 per cent mobilization of any social group; it cannot therefore afford to make its election policy a direct appeal to group interests.

In Australia, this process of convergence towards the centre has been powerfully stimulated by federalism. The two main parties, and

to a less extent the Country Party, reflect in their structure the original federal compact. The State party organizations, like the State Parliaments in the first two decades of federalism, are more influential than the Commonwealth party organizations. Both in Commonwealth elections and referenda, the parties function, not as national organizations, but as loosely-knit federations of State organizations. In the half century since federation, there has been a steady accretion of power to the Commonwealth Parliament—so much so that in the smaller States parliamentary institutions have begun to atrophy. Federal issues now dominate the political life of Australia, whereas in the earlier period of federation (as R. S. Parker has shown in his study of referendums) State political issues tended to dominate federal politics. Party organization has followed this trend—but with a long time lag. Thus, it was not until fifteen years after federation that the A.L.P. set up its Federal Executive, even though the Labour movement had been a powerful influence on the side of federalism. Moreover, although the Labour Party remains formally pledged to increase Commonwealth powers, and although Commonwealth powers have in fact increased substantially in the last two decades, the Labour Party structure has remained strongly resistant to centralization. Without much distortion of truth it could be said that the Federal Executive, far from being a centralizing influence, has been an instrument for keeping Commonwealth Labour parliamentarians under the control of the State Labour parties. The Liberal Party, which is in any case loosely articulated by comparison with the Labour Party, is a loose confederation of State parties with little delegation of power to the centre. It should be noted, however, that although there is less formal centralization in the Liberal Party, the existence of an efficient central secretariat and research organization, which the Labour Party noticeably lacks, tends to redress the balance. The Country Party is the least articulated of the three at the federal level.

The reason why the two main parties have continued to be organized mainly on a State basis and have not developed as national organizations is to be found, paradoxically enough, in the process by which the Commonwealth Parliament, since the late 1920s, has increased in power and influence at the expense of the State Parliaments. With the increase in federal power and influence, the important issues of political life are debated and decided in the federal rather than the State sphere. In the State sphere, therefore, the convergence of parties towards the centre has been pronounced and politics has become a contest for office and the fruits of office. The proposition that in State politics convergence to the centre is more marked than in federal politics is, I believe, part of the reason why, in recent years, Queensland and Tasmania have regularly shown Labour majorities in State elections and Liberal-Country Party majorities in Common-

M

wealth elections. Equally, it may explain why South Australia, with a heavy Labour majority in Commonwealth elections, has for years returned a non-Labour Government.

In Labour politics the State parties, themselves converging towards the centre, are constantly striving to pull the Commonwealth parliamentarians in the same direction. State election campaigns (as the 1947 election in Victoria dramatically proved) are fought more on Commonwealth than on State issues; therefore the Federal Executive, in which representatives of State parties heavily predominate, is normally an influence on the side of caution and negative policies.

For the Labour Party, federalism has in the past been a much more serious handicap than it has been to the non-Labour parties. In the Senate election campaign Dr. Evatt made the significant statement that the socialist issue was dead because the constitution made socialism impossible.²⁷ One might perhaps broaden this statement somewhat and say that, as early as the end of the First World War, Labour's dynamic in matters of social reform had seriously slowed down by constitutional difficulties and that constitutional reform is a pre-requisite for the recovery of this dynamic. But it seems apparent that the domination of the Commonwealth Parliamentary Labour Party by the Federal Executive, in which the influence of the State parties prevails, is a guarantee that no major constitutional reform will be attempted.

Non-Labour's difficulties in policy-making stem in part from the fusion of 1909. Within the non-Labour party, says Fitzhardinge, "there has been a continuous struggle, sometimes visible, sometimes beneath the surface, between two sections; one deriving from the Conservative-Free Trade party of the Reid-Cook Opposition and one from Deakin's Liberal-Protectionist policy."²⁸ This inner disunity perhaps explains why Reid's "socialist tiger", now in its forty-seventh year is still the principal election equipment of the non-Labour parties. It should be noted that, on the two occasions when the non-Labour party has played a positive part in Australian politics, it has done so in a period of national emergency and under the leadership of a recruit from the left. The Nationalist Party, led by W. M. Hughes, came into existence for the specific purpose of organizing the national war effort in 1916; the United Australia Party led by Lyons met the need for a strong government to cope with the economic depression. Both the Nationalist Party and the United Australia Party were, in their initial stages and by the circumstances of their origin, centre parties. They could remain so only for the duration of the emergency that created them; when the emergency had passed, the logic of the two-party system pulled them to the right. The present Liberal Party is to this extent justified in the claim that it does not derive from the United Australia Party; historically, it is in a line of descent from the fusion

of 1909. "The main hope for the future," wrote Littleton Groom after the fusion, "lies in the signs of evolution on the part of the old reactionary forces . . . now allied with more progressive forces. If they can be depended upon to continue being liberalized all will be well."²⁹ Mr. Menzies might have had the same thought thirty-five years later; Disraeli had it sixty-five years earlier. "A sound Conservative government," said Mr. Taper musingly; "I understand: Tory men and Liberal measures."³⁰

A large part of Australian political writing in these days consists of laments for the intellectual bankruptcy of the political parties and the dominance of party machines. I have tried to show, however, that the parties are in the main what the two-party system makes them—and the system is essentially the same at most times and in most places. Its advantage is political stability. Its disadvantage is that it leaves the centre unorganized and inarticulate; and usually the best elements of a country's political life are to be found at the centre. This disadvantage is lessened by the fact that the centre is influential because both parties must appeal to it during elections. But only lessened. The question which must be asked is whether, in the long run, stability is not too high a price to pay for a system which leaves party debate almost devoid of content and at times results in a two-party conspiracy to avoid the real issues of national policy.

23 | PARTY DISCIPLINE IN AUSTRALIA

J. D. B. Miller

I

Any discussion of party discipline in Australia must be concerned largely with the Labour party, but if attention is directed towards the Labour Party alone, a distorted view is obtained of the development of party discipline—a view which assumes that Labour alone is responsible for Australia's departures from "England's classic philosophy of parliamentary government".¹ It is true that Labour has provided the most obvious examples of parliamentary discipline and that other parties have been prepared to copy its institutions; but if we are to understand the nature of Australian parliamentary discipline today, we need to see what degree of party discipline was present before Labour came into parliament, and what special circumstances have conditioned the actions of the other parties. I propose here, therefore, first to examine briefly the nature of the "colonial parliaments" (i.e., the parliaments of the various States, then known as colonies, before Federation in 1901), then to show how, and why Labour developed its characteristic disciplinary forms, and finally, after describing the special sorts of discipline imposed by the non-Labour parties, to suggest the part that party discipline plays in Australian politics today in comparison with its part in British politics.

II

Unlike the New Zealand parliament, the Australian colonial parliaments had manhood suffrage from the 1860's onwards. The gold rushes of the 'fifties and 'sixties had upset the hardening class-structure which the early pastoralists had striven to establish, and had filled the country with impatient men from all parts of the world, who looked to the local parliaments to provide them with the services and opportunities which the "golden lands of Australia" had promised them. Democracy was a reality in Australia at a time when it was still being regarded with suspicion by Bagehot and Gladstone in England. In 1874 W. H. L.

Ranken was disgusted by what he regarded as the undesirable effects of the extended franchise: "as the better or more intelligent class were outvoted in Parliament", he wrote, "they withdrew from these parliaments; and as they despised their victorious opponents, they did not join with these even for their joint benefit. From one step to another the breach has widened, until parliaments have only rarely an educated representative of property". He noticed also a fundamental difference between politics in Australia and politics in England: "Politics in the colonies are a mere matter of business, not of ambition or distinction . . . Politics were at no time looked upon with the veneration and interest they claim in other countries."² While we need not accept Ranken's pessimistic view of what was happening, he was right in pointing out that Australia had developed a different political climate from Britain's, and that institutions had changed with the change in climate. Visitors of discernment from Britain noticed the same thing. Froude, Dilke and Trollope³ remarked upon the contrast in class-structure, the constant concern for the wishes of the small settler, the greater degree of rowdiness of the parliamentary assemblies (although Dilke and Trollope found the South Australian House "remarkably decorous"), the predominance of a few men who had become professional politicians, the concentration of the parliaments upon local issues and the allocation of public works—enlivened by arguments about the tariff, the disposition of lands, and squabbles between Catholics and Protestants.⁴

Charles Gavan Duffy, on arrival in Melbourne in 1855, had "speedily visited the Legislative Assembly and made acquaintance with the leading members. They were generally men of capacity and experience, but I was assured that not one of these Legislators had ever seen a Parliament, and business was necessarily conducted at random."⁵ Duffy, with his House of Commons experience, had tried to drill the Victorian Parliament in obedience to parliamentary conventions; but he had found it an unrewarding task. Forty years later an acute observer found the Australian parliaments devoid of even the principles which animated the Mother of Parliaments:

It is doubtful whether Responsible Government, in the sense of government by a Ministry which carries out a definite policy approved by the country, and, in return, receives allegiance from its supporters in Parliament, has ever been acclimatised in Australasia except in New South Wales, under the influence of the late Sir Henry Parkes. How, indeed, could it be otherwise, when it was sought to transplant a delicate system, hallowed by conventions and dependent for its success upon the election of a special class of representatives among a community necessarily ruled by men who had little experience of public life?⁶

Sir Henry Parkes of New South Wales certainly did try to carry on the attitudes and practices of the House of Commons, but he had little success.⁷ In the period in which he was at the height of his powers

(from the 1850's until 1880) politics in all the colonies was a welter of local issues and of "parties" which hardly deserved the name, forming and re-forming about a few men of prominence, reflecting in their formlessness a society in which economic interests were still very fluid. Only in Victoria, under the influence of David Syme's inflexible personality and the consistent policy of his newspaper, *The Age*, did some sort of order show itself.⁸

By the 1880's, however, a change became apparent. It is from this period that we can date the development of party discipline in something like its modern form, although it was rudimentary and not so thorough as it is now. Nevertheless, in comparison with parliamentary institutions in England at the same time, Australia was showing her own special characteristics. The upheavals of the gold-rushes and of the economic adjustments which followed them had died down; class lines were beginning to show themselves; trade unionism was spreading rapidly; and the growth of secondary industries meant a sharpening of the Free Trade versus Protection controversy. The anarchic nature of parliaments in the 'sixties and 'seventies, when each man was intent upon securing what he could for his own electorate, was still apparent. But party lines began to show more clearly. The institutions through which they expressed themselves are worthy of examination.

First, the caucus had already established itself, as in New Zealand.⁹ It had been farthest developed in Victoria by the Liberal Party. By 1881, the youthful Alfred Deakin was being attacked for voting against the decision of the party caucus and caucus decisions were openly discussed in the Assembly.¹⁰ In New South Wales the practice of holding caucuses grew in spite of the objections of Sir Henry Parkes, who could see no warrant for it in British parliamentary practice; in 1885 Sir John Robertson held a caucus of his pledged supporters before embarking upon a picnic, attendance at which would indicate that members of the Legislative Assembly were prepared to follow him.¹¹ This example, with its combination of caucus and picnic, shows the intermediate stage which party discipline had reached. Sir John Robertson had certain pledged supporters in the House, but there was a large section of unpledged members who knew no allegiance. For these the picnic was necessary, as a half-way stage between membership of a caucus and independent declaration of one's loyalties on the floor of the House.

Next, parties had begun to form branches in local districts and to provide themselves with a central organisation to fight elections. Before the elections of 1877 in Victoria, Graham Berry had organised "leagues" throughout the country for the Liberal Party.¹² In New South Wales the two main parties, Free Trade and Protectionist, established leagues wherever they could, although these did not carry

on much activity between elections. At the 1889 elections (those immediately before Labour entered the political field as a party), the parties were well organised:

. . . At the last general election, it will be remembered, the selection of candidates in the Free Trade Interest was left entirely in the hands of the Free Trade Association. On this occasion the Parliamentary party will assume the chief direction of affairs; but steps have been taken to secure concerted action between the two bodies, and to effectually prevent friction . . . The central committee of the Protectionist party were busily engaged . . . The managers say that the abundance and excellence of the material at their command in this respect is likely to be a cause of weakness when the fight comes on, but they declare their intention of picking out the best men for each constituency, utterly regardless of personal claims, and they call upon the protectionists to ignore all others who offer themselves in their interests.¹³

These party organisations used the pledge to discipline their candidates, who would lose endorsement if they voted against Free Trade or Protection, whichever they had pledged themselves to. The pledge was freely employed by other bodies also. At these 1889 elections in New South Wales, lists of pledged candidates were published by each of the two parties, by the City Railway Extension League, by the Independent Order of Good Templars, by the N.S.W. Local Option League, and by the Association for the Promotion of Morality and Social Purity.¹⁴ Each body had submitted specific questions to the candidates and obtained satisfactory replies from those whose names they published.

So it is evident that caucus, central organisation and the pledge—all of them institutions usually associated with Labour—were in existence before Labour came on the political scene. But none of them was as efficient as Labour was to make it—and therein lies the difference between party discipline before and after the entry of Labour. Labour took the existing institutions and made them effective. The older parties and organisations had used the pledge, but had been able to apply it successfully only to a single policy, such as Protection or Local Option. On other matters it was of no avail. Labour made it apply to a *platform*, a set of policies. The older parties tried to make central endorsement a weapon which could be used against members who broke their pledges, but they did not possess sufficient prestige to make lack of endorsement a serious obstacle to election. Labour, with its enforcement of trade union “solidarity”, was able to do so. The caucus, in the hands of the older parties, was an occasional convenience; Labour made it a permanent institution. Thus, Labour did not invent the devices which it was to use to ensure party discipline, but it was the first party to make them effectively rigid.¹⁵

III

To understand the growth of Labour Party discipline, one must note, first, that it took its tone from the trade unions, to whom "solidarity" was a vital slogan; and, second, that it operated for its first fifteen years as a party granting "support in return for concessions".

The question of "solidarity" is important as being the dominant element in what Childe calls "the Labour view of democracy".¹⁶ Sometimes "solidarity" has been dignified as "mateship", but in its enduring form the "Labour view of democracy" is a determined conviction that a "cause" exists which must be served by all, and that, once a decision has been taken, those who refuse to obey it are "scabs" or "rats". It has encouraged the view that "solidarity" is in itself a desirable objective as well as a means to attain other objectives.¹⁷ This view of democracy had been hammered out in the trade union struggles of the 19th century, especially in the pastoral industry. It was transferred as it stood to parliamentary politics. It has remained an important factor in Labour discipline. The trade unions were responsible for the organisation of Labour electoral activity in the 1890's, and they naturally gave their tone to it, as they do still. Their attitude towards the party which they had created was expressed in 1892 by Wilson, the President of the Sydney Trades and Labour Council, at a meeting held to consider the behaviour of Labour M.P.'s who had split apart on the fiscal issue:

The members . . . had been selected, not by reason of their superiority in intelligence over their fellows, but simply because they took up the cry of Labour . . . He would remind them that the people whose votes put them in at the last election could put them out at the next, and they were only cutting their own throats, for the workers would put others in their places. It was expected that they would learn to carry on parliamentary business properly . . . Where the members had spoiled their work was by having too unruly tongues and by being unable to prevent themselves from making rash promises, which went against them when they were called upon to decide any questions . . . The league had a right to demand that all individualism should be sunk by those members it had selected to carry out its platform.¹⁸

In other words, the Labour M.P.'s had been behaving like ordinary M.P.'s, and taking just as little notice of their pledges; "solidarity" must be brought into effect. What was the purpose of that solidarity?

In the 1891 Parliament in New South Wales, Labour found itself in what was to be its typical position in that and other State Parliaments, and in the Federal Parliament, for approximately another fifteen years—the position of a third party. The other two parties were loosely-defined groups of free traders and protectionists, or liberals and conservatives. Obviously Labour would be best served by holding the balance between them. Immediately after the 1891 elections, the secretary of the Labour Electoral League (the body which had con-

ducted the Labour campaign) announced that "as a party we shall elect our own leader before Parliament meets. We shall sit on the cross-benches. On all questions embodied in the Labour platform we shall vote as one man. On all other questions affecting Labour, yet not embodied in the labour platform, we shall vote in accordance with the decision of the majority of our party. On the fiscal question we shall vote according to conscience, untrammelled by the League."¹⁹ This determination to act as a disciplined force on questions affecting the interests of Labour was given further point by George Black, a Labour journalist who was one of the new M.P.'s, when Parliament met. He stated that "the motto of the Labour Party is: Support in return for Concessions. If you give us our concessions, then our votes will circulate on the Treasury benches; if you do not, then we shall withdraw our support."²⁰ The whole strategy was taken directly from Parnell's Irish Party in the House of Commons.

In fact, however, it proved difficult to enforce in the different conditions of Australia. Obviously it was desirable that the party should vote as one man wherever vital interests were at stake, and desirable too that it should swing its united weight from side to side of the House, making and un-making governments so that it might make and unmake social conditions. But members soon split on the fiscal issue, which they had hoped to avoid. It looked as if the new party could not carry out the strategy it had planned.²¹

Looking back from this distance in time, one can easily see why Parnellite strategy could not be automatically applied by an Australian Labour Party in the 1890's. For one thing, the party had no such dominant leader; it had, in fact, no leader at all to start with, and functioned under the guidance of a committee. The Irish Party had been able to carry out its strategy successfully only because of Parnell's masterful hold over his followers. As well as lacking a dominant leader, however, the party lacked a dominant objective. Parnell's aims were simple and few, and his over-riding objective was the independence of Ireland. Labour in New South Wales, in contrast, began with a platform consisting mainly of reforms which would make conditions easier for miners, seamen and other trade unionists, but also including general "democratic" reforms such as the abolition of plural voting, free education, a National Bank, election of magistrates, wider local government, land reform, voluntary defence, and "any measure which will secure for the wage-earner a fair and equitable return for his or her labour".²² It was designed to commend itself to trade unionists, small farmers and "idealists" of various kinds, a coalition of interests which Labour has tried to preserve ever since. The appeal which Labour made was diffuse and broad, as distinct from the deep, narrow, passionate appeal of the Irish Party in Ireland. It is no wonder that the Labour Party failed automatically to develop

the solidarity which the trade unions wanted it to show. It needed new disciplinary institutions, rigorously applied. Only by means of discipline exerted first from within the party itself and later from dominant trade union leaders outside could the Party hope to grant "support in return for concessions". As we shall see, the institutions which it developed for this purpose were later adapted to the different purpose of maintaining discipline in a Labour Party which was able to form a government of its own. These institutions were the pledge, the caucus, the nexus between the M.P. and the Labour organisation outside Parliament, and later the election of a ministry by caucus and the restrictions which this placed upon a Labour Premier or Prime Minister.²³

IV

The complicated story of the evolution of the Labour Party pledge has been told by a number of writers, and need not be repeated here in full detail.²⁴ It is enough to state that the first pledge, drawn up by the members themselves in 1891, committed them only to vote as a majority of the caucus should determine "on all occasions considered of such importance as to necessitate a Party deliberation". This vague commitment was changed in 1893 to one which demanded that members pledge themselves "not only to the fighting platform and the Labour platform", but also to a solid vote "upon all questions—affecting the Labour Party, the fate of a ministry, or calculated to establish a monopoly or confer further privileges on the already privileged classes—as they arise." This established the principle that the party in Parliament could be held to account if it did not vote together on vital issues. In 1895 the pledge became even more binding. The candidate pledged himself "not to oppose the selected candidate of this or any other Branch of the Political Labour League", and "to do my utmost to ensure the carrying out of the principles embodied in the Labour platform, and on all questions, and especially on questions affecting the fate of a government, to vote as a majority of the Labour Party may decide at a duly constituted caucus meeting." In making the candidate promise not to go against the final decision of the Party's Executive, this pledge made that Executive the final authority over the candidate. He was now pledged to a movement as well as to a policy. As well, he promised to vote on *all* questions as a majority of caucus decided. Only in this way could Labour exert its full influence in the N.S.W. Parliament.

In the Federal Parliament, on the other hand, a more delicate situation arose. The Labour members who assembled at Melbourne for the first Commonwealth Parliament in 1901 came from different States, with no Federal organisation to guide them. Some had made pledges on the fiscal issue (which was now transferred from the State to the Federal sphere) and others had not. Accordingly, they adopted a plat-

form of five planks (White Australia, Adult suffrage, Old Age pensions, A citizen army and Compulsory arbitration) and decided that only on matters relating to this platform should they be bound to vote together.²⁵

We can draw certain conclusions from these various pledges. As we have seen, the notion of a member being pledged to his constituents on certain matters was well established when Labour came into politics, and it is thus something of an over-statement to suggest, as Louise Overacker does, that "the pledge was a novel, pragmatic solution to a problem which had worried members of the new party from the beginning".²⁶ Pledges to constituents and to organizations were not new. But they had been mainly applied to single policies (e.g., free trade, protection), and not to sets of policies. The Labour pledge was from the beginning a pledge to a *platform*, and it soon became, in New South Wales, a pledge to a *movement*, as represented by the central executive of the Party. When the Federal Party came into being it recognised that unity of action was desirable, but that there was not yet full unity of opinion amongst the various states. By pledging its members to a limited programme it was able to go ahead with a successful policy of "support in return for concessions" until its time came to take the reins of government.

The contrast between this situation and that which prevailed in the colonial parliaments is well brought out in criticisms of the Labour pledge by George Reid, an anti-Labour leader who had been trained in the rough-and-tumble of N.S.W. politics and had succeeded Parkes as Free Trade leader before entering the Federal House. He said:

I do not believe that such a platform ever existed before in connection with a constitutional party in the Empire. We are told in reply, "Oh well, all parties work together and all parties have their caucus meetings, all parties feel the pressure of government influence, and all parties make concessions in order to attain greater objects, and to support the Government in whom they generally believe." But the Government [i.e., the Watson Labour Government of 1904, the first Federal Labour Government] represents the one party that ever existed in the Parliaments of Australia or the Empire, which is in the position that one cannot be a member of it without endorsing every plank in the platform. You can swear to eight honestly and say to the Labour Party, "I am heart and soul with you about these eight, but here is a ninth which is not of much importance, will you allow me to waive that? Will you allow me to exercise my judgment in regard to it?" Their answer is, "Sir, you cannot belong to our party unless you solemnly pledge yourself in writing to support every one of our planks." I appeal to all of political experience in Australia, if there has ever yet been a Government in power on this continent which has drawn up a platform of seven planks, and compelled its supporters to subscribe to every one of them.²⁷

The existence of the platform was thus the distinguishing mark between Labour and the parties opposed to it, which still retained the

lack of a defined set of commitments which had characterised the colonial parties. In due course, however, the platform ceased to be so important. As its original planks became law, and a variety of new ones were added, Labour began to place more emphasis upon its "objective" (defined in 1921 as "the Socialisation of Industry, Production, Distribution and Exchange").

The pledge today is one which binds the candidate to support and advocate the socialist objective, not to oppose the Party's selected and endorsed candidate and not to retire from the contest without the Executive's consent, and on all questions relating to the Labour platform, especially questions affecting the fate of a government, to vote as a caucus majority decides.²⁸ The pledge is now somewhat more liberal than in 1895, since it allows the member some scope for voting against his party on matters not connected with the platform or the fate of a government, but it confirms the change which took place then by giving the central Executive full control over the member. He can be refused support and endorsement if he disobeys its instructions.²⁹ The pledge is now much more a matter of organisation than of conscience. It does pledge the candidate to a certain set of policies, but, even more, it pledges him to take his place in the strategy of a well-drilled party in Parliament. It is a means of achieving "solidarity". In the last resort, it is a pledge given to the expressed official majority opinion of the Labour movement at any particular time, and cannot be circumscribed within the bounds of a platform. It becomes important only when there is some quarrel between the politicians (or some group amongst them) and the Labour executives (or some group amongst them). Thus its full effect can be gauged only after we have discussed caucus and the outside organisation of Labour.

V

During the period of "support in return for concessions", the Labour caucus operated in much the same way as the caucuses of other parties, though with more regularity and discipline. Its aim was to work out a parliamentary strategy which would enable it to get the most value for its votes. In this it was remarkably successful. New South Wales politics between 1895 and 1905 was largely a matter of "a minority actually controlling the domestic policy of the State, without sharing in the responsibility of office",³⁰ and Labour gained many things which it wanted in legislation and in administration—notably in the Public Works Department. The same is true of the Federal Parliament for its first decade. Many of Alfred Deakin's achievements were made possible only by Labour support and some of them were the result of Labour pressure.³¹ At one stage the Labour Party, after attempting to form a coalition with Deakin, entered into a working alliance with the Liberal Protectionists, but its supporters grew restive at the electoral immunity which this gave the Protec-

tionists in the alliance.³² In Queensland and in South Australia the Party entered coalitions in the early years of the century. In 1908 the Party tried again to form a coalition in the Federal Parliament with Deakin, but the attempt was a failure.³³

It will be noticed that in certain instances Labour supported other parties without actually forming a coalition with them, and in others Labour took seats in a coalition ministry. By about 1910 a third stage was reached: the party became so strong in nearly all the Australian parliaments as to contemplate forming governments on its own account, and the "support in return for concessions" period was over.³⁴ In all these situations, however, the need for a strong, united caucus was apparent. As we have seen, the Parnell example of parliamentary strategy was being followed, but without Parnell's over-riding objective. The party was not attempting to achieve a socialist society by parliamentary tactics. It was successfully attempting to gain certain concessions—in industrial law, social services, and other fields—which its followers had been led to expect from it. Unless it had a strong united caucus it could not swing its weight to the best effect. This was the advantage of the caucus when Labour was supporting another party in office. But the caucus became even more important when Labour entered a coalition. If caucus did not keep a tight hold over Labour ministers, they might drift over to the other side, regarding their hold on office as more important than obedience to the demands of the Labour movement: Kidston, the Labour leader in Queensland, did this in 1907.³⁵ In the Federal Parliament, the Labour caucus early established a rule that no member should enter a ministry without caucus approval.³⁶ As experience of alliances and coalitions grew, Labour opinion hardened against them; the 1905 and 1908 Federal conferences of the Party were both suspicious of them, showing clearly that Labour people regarded the maintenance of solidarity as more important than temporary gains which might result from relaxing it. When Labour gained the strength to become a government in its own right, however, new problems of solidarity and caucus control arose.

This is a useful point at which to summarise the growth of party discipline up to approximately 1910. Nearly twenty years of a Labour party in the various parliaments of Australia had curbed the anarchy which had characterised them during the colonial period. The other parties still lacked definite objectives and strong discipline, although they each possessed, in rudimentary form, the sort of machinery which Labour used—the caucus, and the outside organisation which would refuse to re-endorse a member of parliament if he persistently broke his pledges. Labour had not invented this machinery, but had made it effective. The Labour pledge was a pledge to a platform of policies, and to a movement which regarded solidarity as a vital watchword. Labour's strategy of alliance, and occasionally of coalition,

demanding a disciplined party; and that discipline was enhanced by the further need to keep control over Labour ministers once they had gained office in a coalition in which other influences might operate against their Labour allegiance. The whole emphasis was upon parliamentary strategy, as was inevitable in a situation where three or more parties were competing for power.

In the remainder of this article I shall examine the development of party discipline in the Labour Party when it took office on its own account, and in the other parties under the stress of competition with Labour and with one another. This will entail a closer examination of the relationship between Labour in parliament and Labour outside, and of the extent to which non-Labour forces have been able to achieve a "solidarity" comparable with Labour's.

VI

We may take 1910 as the date when the Australian Labour Party began to face the problems of "running the country", and all that this entailed in party organisation. There had been a Commonwealth minority Labour government of four months' duration in 1904, and one of seven months' duration in 1908. In 1910 the first majority Labour governments were elected in the Commonwealth, New South Wales and South Australian parliaments. In Queensland Labour was to achieve a majority in 1915, in Western Australia in 1911, and in Tasmania in 1914. Thus, all over Australia, Labour was called upon to adapt its existing party machinery to the new task of keeping a government in check.

The problem of relations between a Labour caucus and a Labour cabinet had been seen in embryo in the Federal sphere as early as 1904. When it became clear that J. C. Watson was to be asked to form a minority government, there was speculation about the caucus rule preventing any of its members from taking office without caucus approval. However, the caucus unanimously resolved that "the Chairman have a free hand in the formation of his Ministry".³⁷ Once it was selected (containing one non-Labour man, H. B. Higgins) the caucus appointed a committee of six, three from each House, to assist the Leaders in the two Houses.³⁸ There was some newspaper speculation as to whether Higgins would have to obey caucus rulings, and his biographer remarks that he was in fact embarrassed by caucus discussions, to which he was not a party, about matters connected with his Department.³⁹

From this point onwards, the idea of caucus *electing* a Labour ministry began to take shape. At the 1905 Federal Labour Conference, a resolution was carried that "in the event of the Labour Party obtaining the Ministerial benches the Labour Ministry shall be recommended by the party in caucus".⁴⁰ A similar motion was moved at the 1906 Annual Conference of the party in New South Wales, but was

opposed by party leaders and failed to pass.⁴¹ In 1908 the Federal Conference re-affirmed its previous motion, and the minority government formed by Andrew Fisher in that year was elected by caucus—although the Prime Minister himself was reluctant to make the fact known, and Watson, his predecessor, unsuccessfully attempted to have the selection of ministers placed in Fisher's hands alone.⁴² The 1910 Labour Cabinet was elected by caucus without opposition. In 1914 Federal caucus carried a motion "that the word 'recommend' in the rules governing the appointment of Ministers be omitted and the word 'elected' inserted in lieu thereof".⁴³ This marked the final acknowledgment of caucus supremacy, because it rejected the fiction that caucus was only "recommending" Ministers to the Prime Minister, who had received the Governor-General's commission to form a government.

The election of the Cabinet by caucus was one more way of bringing the parliamentary activities of the Labour Party under collective control. It is fairly clear that the leaders of the party did not welcome it. It was opposed to parliamentary precedent,⁴⁴ it took an important source of patronage out of the hands of the leader; and it saddled him with Ministers whom he might not have selected himself. While his freedom to allot portfolios was never in question, he was restricted in his field of choice. But rank and file members, aided by the Labour organisation outside, considered that a party leader might gain too much power if he were given the right to choose his Cabinet. On the assumptions of the Labour movement, this was reasonable enough. The leader himself, up to this time, had been known only as "chairman" of the caucus and was subject to regular election,⁴⁵ and the trade union movement had always made a point of electing its officials rather than have them appointed from above.

Nevertheless, the early Labour cabinets showed a tendency to "grow away" from caucus. The Fisher Ministry of 1914 saw a number of differences between Cabinet and caucus, culminating in a special meeting in June 1915 which passed a motion that all Government measures be submitted for the consideration of caucus before being presented to Parliament, and that the nature of those measures be as a caucus meeting decided. The Cabinet had taken certain steps in regard to sugar supplies and the tariff, without consulting caucus.⁴⁶ Wartime experiences were to intensify these differences between caucus and Cabinet. In New South Wales the McGowan and Holman governments (1910-1917) had a number of differences with caucus, the most notable being those over appointments to the Upper House in 1912 and 1915.⁴⁷ The Labour Cabinet said such appointments were an executive matter and should remain so; when made, they were found to contain a majority of non-Labour men. One member of caucus wrote later that "this was the most serious mistake ever perpetrated by the Labour government. . . . As a result the whole Labour

organisation became a seething mass of discontent".⁴⁸ This and other actions built up a barrier between caucus and Cabinet which was to be intensified when the quarrel came over conscription in 1916 and 1917.

Broadly speaking, members of Labour cabinets were more inclined towards conscription than rank and file M.P.'s and the Labour movement outside Parliament. Labour ministers, especially in the Commonwealth and N.S.W., were seized with the over-riding nature of military demands. It is not surprising then, that when the split came, ministers tended to support conscription and rank and filers to oppose it. There were exceptions on both sides, and in Queensland the whole Party was "solid" against conscription; but the end of the war found Labour out of office except in Queensland, and with "its brains blown out", its former leaders, such as Hughes, Holman, Spence, McGowan and Watson having mostly become "Nationalists" in association with their former Liberal opponents.⁴⁹ This evoked much bitterness against "leaders".

It is not surprising, then, that the 1919 Federal Conference of the party should have stressed the importance of caucus control, one delegate moving "that in the event of a Labour majority being obtained, the system of Cabinet government be modified so as to associate in the administration of each Department a committee of 5 members elected by caucus".⁵⁰ He said:

They wanted to get away from the present system so that the work of administration could be carried out by practically the whole party, and not merely by the 8 or 10 men chosen for the positions, as obtained now. . . . It should mean more effective administration than what the people got at the present time. Ministers drawing high salaries had in a sense become a class apart, and they came to caucus in a solid body—even when they had differences of opinion on subjects—and presented their proposals in such a way that it did not always make for the best in legislation, nor afterwards in administration. It would be better to divide the work up among the members of the party.

The motion was defeated by 17 votes to 11. It is noteworthy now mainly for its emphasis upon administration. There was little complaint about Cabinet's legislative decisions; what the supporters of the motion objected to was the fact that Labour M.P.'s were often unable to get what they wanted from the administrative departments, and that Labour Ministers would not help them to do so. Labour members had inherited the traditional duties of an M.P. in colonial days—to "see" Ministers and departments, to be employment broker, social service adjuster, "fixer" of public works; and they were often less interested in law-making than in pleasing their constituents by their assiduity at these duties.

One may bring the relationship between caucus and cabinet up to

date by contrasting two statements about it. The first is by Sir William Harrison Moore, writing in 1914:

In England, the feature of the day is the domination of the House of Commons by the Cabinet. But in Australia, the prevalence of the caucus would threaten the cabinet as much as the House. Where the caucus elects the Ministry, the regular sessions of the caucus must, it would seem, tend to supersede the deliberations of the Cabinet, at any rate while Parliament is sitting; to bring Ministerial differences to the arbitrament of the party meeting instead of to the Cabinet or the Premier; and to substitute for the collective responsibility of the Cabinet to Parliament the individual responsibility of Ministers to the caucus.⁵¹

In contrast, the verdict of the Canadian Brady, after caucus election of cabinet had been going on for another 30 years, was that:

. . . in fact this control is more apparent than real, since the ministers are ordinarily the most skilful and forcible debaters, able when united to convince the majority of the caucus, and, if they fail in persuasion, they may obtain their own way by using the formidable threat of a dissolution.⁵²

Moore's vision of how caucus control might develop was frustrated by the sort of influences that Brady mentions, and by the impossibility of caucus becoming an administrative body capable of superintending the operations of government. But the cabinet ascendancy which Brady mentions can be maintained only if three conditions are present: reasonable unity of opinion within the party as to the policy to be followed; reasonable unity amongst ministers; and the support of the Labour organisation outside if the threat of dissolution is to be successful. These conditions were not present in the case of the first Federal Labour government to take office after the conscription split, the Scullin government of 1929; and it proved unable to govern in a period of economic stress.⁵³ On the other hand, they were present during the currency of the next Labour governments, the Curtin and Chifley administrations of 1941-49; in consequence, the Chifley government was able to surmount successfully a major threat to party unity when it came in the shape of the Bretton Woods controversy of 1946-7.⁵⁴

The relationship between caucus and cabinet is the crux of Labour discipline within Parliament. A Labour cabinet is, in the last analysis, the servant of caucus; but it is in a strategic position to guide and influence its master. As well, it can bring home with force to caucus those "national" issues of which only a cabinet can have adequate knowledge, and in this way direct attention to issues which caucus, in its concentration upon specifically "Labour" policy, may overlook. But this point should not be pushed too far, since caucus members are practical politicians as well as (often more than) Labour zealots, and may often be acutely conscious of "national" (i.e. electoral) opinion of which Cabinet's concentration upon departmental affairs

has prevented it from becoming aware. When Cabinet and caucus are in harmony, this system works well; when they are at loggerheads, as in the case of Scullin's government, it creates further strife.

VII

The position of the Labour leader deserves attention. There has always been an undercurrent of resentment against "leaders" in the Labour Party, exemplified by the *Sydney Worker's* statement when Holman was having his fights with caucus over the Legislative Council appointments in 1914:

The Labour movement needs no leadership and possesses no leader. It represents a phase of evolution infinitely in advance of the days when the workers were "led". They have no use for leaders. In conference assembled, they formulate their policies and decide their tactics. In mutual associations, they select their candidates and conduct their campaigns.⁵⁵

The experiences of the conscription period intensified this point of view in various quarters. Yet the 1920's saw Labour in Queensland with a strong leader, Theodore; the 1930's saw the same process repeated, with far more emphasis, in the case of J. T. Lang in New South Wales, and in the 1940's Curtin and Chifley in the Federal sphere provided leadership which was widely recognised as being something more than the carrying out of decisions made by other sections of the party. What, then, is the position of the Labour leader?

First, so far as his position in Parliament is concerned, he is somewhat weakened by not being allowed to select his own ministers, but he can exert influence by his disposition of portfolios. As well, if he is a strong and popular leader, he can usually be sure of having his own particular friends and supporters elected to Cabinet. He is usually a man of long parliamentary experience and one who, in his own right, occupies a prominent position in the public eye. All these factors give him some degree of independence in exercising his leadership. But he can rise to power, and retain it, only if he has the support of the dominant trade unions, those which provide the funds and functionaries for the Labour Party's outside organisation. This point can be illustrated from the case of Lang in New South Wales.⁵⁶

Lang achieved supreme power because the leaders of the trade union movement in New South Wales (with the exception of the A.W.U.),⁵⁷ were convinced that his policy was more likely to soften the effects of the depression than the policy being pursued by the Federal Labour government under Scullin. In a period of unrest and unemployment, he was able to marshal behind himself and his "Lang Plan" all the "solidarity" which was the hall-mark of the trade unions and the Labour Party. "Solidarity" had operated to pull down leaders like Holman and Hughes. Now it operated in the reverse direction: it elevated Lang to a pinnacle of power such as no Labour leader had

reached before. Once the unions decided to support Lang, anyone who opposed him was ruthlessly cast out.

The significant thing, however, is that when Lang lost this trade union support, he was unable to continue as an independent force of any strength within the Labour movement. After nearly ten years of steady support, the New South Wales unions began to withdraw their allegiance. For once, the A.W.U. and the other unions found themselves in agreement; after a series of scuffles within the party organisation, and the setting up of an "industrial" Labour Party to win trade union support from Lang, he lost the leadership and a few years later was expelled from the party. The lesson is plain. No Labour leader can retain his position without the support of the trade union movement. If he loses it, his parliamentary supporters drift away from him. If he retains it, however, as Curtin and Chifley did, he can marshal "solidarity" behind him in Parliament and out of it.

VIII

We saw in the previous article that the trade unions were mainly responsible for forming the Labour Party, and that their tradition of "solidarity" was transferred as it stood to Labour in Parliament. The relationship between Labour Party and trade unions has remained much the same ever since. The trade unions are the main source of Labour finance. In each State, the supreme Labour authority is the annual conference of branches and affiliated unions of the party, at which unions are represented roughly in accordance with their membership. These conferences select "executives" to manage the affairs of the party for the next twelve months. These State executives are the centres of power in the Labour Party. They conduct electoral campaigns, endorse candidates for elections, and recommend policy to Labour governments. Usually they contain a majority of trade union representatives, and in this sense the trade unions can be said to "control" the Labour Party—with the important proviso that while the trade unions always uphold "solidarity" as a principle to be enforced, they are rarely "solid" amongst themselves on more than a few matters of industrial policy. There is a long history of conflict between the A.W.U. and other major unions, for example; some unions have Communist officials, while others are under direct Labour Party control; unions do not always co-operate with one another in industrial disputes.

It is usual for "tickets" to be run at each conference of the A.L.P., and for one "ticket" to sweep the board in the election of the executive.⁵⁸ The ticket will comprise representatives of the dominant trade unions, plus other members of the party who are of the same line of thought, and other prominent members, who, while not closely identified with the dominant union group, help to give the ticket a universality which will attract stray votes to it at the conference.⁵⁹ In this

fashion the State executive gives a rough proportional representation to a variety of elements within the party—although it may squeeze out altogether certain factions opposed to the dominant group. This often occurs at times of crisis in the trade union movement. When any group is losing power in the Labour movement generally, it will attempt to retain its position of strength in the Party “machine” by manipulating the rules and by the liberal use of patronage of various kinds. This tactic was adopted in N.S.W. in the 1920’s by the dominant A.W.U. group, and again in the 1930’s by the dominant Lang group. An opposition movement within the trade unions and Labour branches has to surmount this sort of obstruction—a long, violent and fatiguing operation.

The relationship of the trade unions to the A.L.P. has often been discussed. Marxists and semi-Marxists, like Childe and Fitzpatrick⁶⁰ believe the Party should always be under the unions’ thumb. Crisp⁶¹ sees the need for Labour’s organisation to take account of the various elements within the party and also of those outside the party who vote for it at elections. In fact, the organisation has always been in a state of change, now with one group dominant, now with another. Sometimes these groups have been strongly “ideological” in their demands; sometimes they have simply been after power. On the whole, however, the party has tended to represent accurately the main changes in trade union thought, and to follow trade union opinion on industrial questions. On other questions (even questions of doctrine about “socialism”) the trade unions have rarely been “solid”, and it is only a half-truth to identify the trade union leaders as “idealists” and the Labour politicians as “practical men”, as Hancock does.⁶² The trade union leaders are “practical men” too, with a narrower group of constituents than the Labour M.P.’s—constituents whose demands are industrial and who vote as unionists when industrial matters are to the fore, but who may vote in quite some other way—e.g., as small property-owners or members of a religious faith—when other questions are prominent. Trade union leaders are usually satisfied to leave other than industrial questions to the politicians, so long as those politicians are “sound” on industrial matters such as working conditions and wages.

We may sum up the disciplinary power of Labour’s outside organisation in this fashion: when there is reasonable unity between politicians and the dominant section of the union movement, pressure will be felt from the outside organisation only on special occasions.⁶³ When felt, it will be obeyed, unless the leader’s prestige is so strong as to allow him to treat with the Executive and make his own terms. But when there are deep rifts within the outside organisation, and a fight for supremacy there between different factions, more than one being powerful enough to seize control, the result will be chaos, and the parliamentary party will lose its powers of initiative and its capa-

city to act as an independent force. This means that the individual M.P. may find his opinions subordinated to the whims, grievances and bitternesses of a temporarily predominant faction in the "movement" outside parliament. The destruction of his "responsibility" in such a case is far greater than any destruction which caucus is likely to wreak. In caucus he has a voice and vote; as a victim of a factional struggle he may have no voice at all, but be simply discarded because of personal resentment against him or a change in power-relationships. When such things happen—and they were common in the 1920's—Labour reaches its lowest ebb. "Solidarity" is invoked in the name of every contending faction at once. The loyalty which party members feel to their "movement" is used by factions to gain temporary control.

But it must be emphasised that when factional strife is not the order of the day, the outside organisation can be of considerable assistance to the parliamentary party. It can sample public opinion and institute discussion. And in providing opportunities for party service to rank and file members, it keeps in being the election-winning organisation which a parliamentary party must have if it is to survive. It is hard to imagine a modern political party without such an organisation; and we may conclude that when that organisation is divided, it usually reproduces a division of opinions and attitudes within the general bulk of Labour supporters. Its excesses are the price paid for Labour's being a mass party.

IX

The development of the non-Labour Parties falls into two periods from 1910 onwards. In the first, a single Liberal Party, the product of a "fusion" amongst a number of non-Labour groups, faces Labour across the floor of all the Australian Parliaments. In the second, following the conscription split in 1917 and the growth of Country Parties around 1919, there are two main non-Labour parties. One is a "city" party, labelled successively Nationalist, United Australia and Liberal, not very different in structure, aims and attitudes from the Liberal Party of 1910-1917; the other is a "country" party, representing primarily farmers but other country interests as well, necessarily a minority party and adapting its strategy to suit the circumstances of a permanent minority.⁶⁴ Usually, the "city" party cannot form a government on its own. It must enter a coalition with the Country Party.⁶⁵

The "fusion" party of 1910-1917 was formed specifically to combat Labour, and consisted of a variety of disparate elements united only by their common antipathy to Labour legislation.⁶⁶ Its successors have preserved this heterogeneous character. The Liberal Party of to-day represents a variety of social forces and interest-groups, and it has had neither the same need nor the same inclination as Labour to

cultivate "solidarity". It has never had the same degree of coherence in its political programme (it is a true descendant of those colonial parties to which Reid belonged, and which asked no-one to subscribe to a platform). It has concentrated more upon opposition to Labour than upon building up its own distinctive policy. If one may make a distinction which is somewhat difficult to maintain, it has concentrated more upon *organisation* than upon *discipline*. It has usually had two separate controlling factors—"first, the public association consisting of local branches, conferences of delegates appointed by the branches, and executive; second, the confidential group which collected and disbursed party funds".⁶⁷ Whereas Labour has brought its individual members (enrolled in branches) and its collective members (the trade unions) together in the one external organisation (of conference and executive), the Liberal Party has, in the past, separated the two: collective membership has been secret, unacknowledged, vital and powerful. To-day the Party attempts, for the first time, to do without a formal "confidential group" which raises money and wields ultimate power. In the past the "confidential group" has determined party policy at crucial periods, and controlled the money needed for campaigning.⁶⁸

So far as discipline is concerned, the main non-Labour Party has tended to move away from formal pledges and commitments, and to rely upon the ultimate threat of withdrawn support, to maintain order. The Nationalist and United Australia Parties had formal pledges and much the same sort of selection and endorsement provision as Labour; the Liberal Party of to-day exacts no pledge, but does exert pressure upon its members when they fail to follow the party line on vital matters.⁶⁹ The Liberal Party does not provide for caucus election of Ministers, this task remaining in the hands of the party's leader; but it does conduct regular caucus meetings at which rank and file members are able to say what they think of the party's strategy. It would be fair to say that the Liberal Party leader has more initiative and manoeuvrability than his Labour counterpart; but the loss of office of Mr. R. G. Menzies in the Commonwealth, and Mr. B. S. B. Stevens in New South Wales (both in 1941), showed that a Liberal caucus⁷⁰ can and does get rid of leaders whom it finds unsatisfactory. To what extent changes in leadership are the result of caucus indignation alone, or of pressure from outside, we do not know; but there is good reason to believe that in both the cases quoted the pressure from outside was considerable.

One may say that the Liberal Party of to-day is about halfway between the Australian Labour Party, with its long-established disciplinary institutions, and the British Conservative Party, which does not even hold regular party meetings in Parliament. It is quite otherwise with the Country Party.

X

It is important to note that the Country Party, while a minority party, does not pursue the early Labour strategy of "support in return for concessions". Labour's view was: here are two or more rival parties, each of which will bid for my support. I shall attach myself permanently to none of them, but will swing my support from one to the other, depending upon what they give me. The Country Party view is: I represent the country interest, and I am confronted with two city parties, neither of which cares much about the country. But one is an employers' party and the other an employee's party; my members are nearly all employers, so I cannot support an employees' party. Instead, I shall attach myself to the employers' party, without losing my own identity; and I shall threaten temporary loss of support unless I get what I want. But I shall never support Labour.

Even at the beginning of the "fusion" period there were grumblings from the two big farmers' organisations, the Graziers' Association and the Farmers' and Settlers' Association, that country interests were neglected by the new Liberal Party. At the 1910 conference of the Farmers and Settlers, a motion for the formation of a separate Country Party resulted in a tie. One speaker said that unless such a party were formed, the Association would be "only a joint in the Liberal Party's tail".⁷¹ Another voiced the opinion of many when he said: "They should form a party, just as the Labour people did, and if their members were not loyal to the Association, they should kick them out". Although no party was formed at this stage, a motion was carried declaring that branches should submit any political resolutions to the Association's Executive Council before sending them to local M.P.'s: "If they were an army engaged in battle", said the mover, "would the officers of divisions, regiments and companies have the right to say which way they should go? (No!) . . . Now they must have discipline." Similar sentiments were expressed in Victoria, Queensland and Western Australia.

When the Country Party did arise in 1919 as a result of exertions by the two major farmers' organisations, it found a political climate favourable to it.⁷² There was widespread disapproval in country areas of the marketing schemes which the Hughes Nationalist government had carried through in the federal sphere; there was also a conviction that the ex-Labour leaders in the Nationalist Party had given it too pink a tinge. The Country Party (known at first in New South Wales as the Progressive Party) began as a breakaway movement from the Nationalists. By 1923 it was a partner in a Federal Government, on terms which gave it a complete veto and a ministerial strength beyond its members;⁷³ it was participating, though not on quite such favourable terms, in governments in New South Wales, Victoria and Western Australia. Issues have changed somewhat since 1923, but the position of the Country Party remains much the same. In order to

occupy such a position, it must have powerful disciplinary machinery.

The Federal Constitution of the Australian Country Party maintains that "the Federal Council shall not form with any other political organisation an alliance that does not preserve intact the identity of the party", and that "acceptance of portfolios in any other than a purely Country Party government must be with the approval of a majority of members of the Federal Council".⁷⁴ In addition, the Federal Council determines the Federal policy of the Party, which is laid down at a joint meeting of Federal M.P.'s and the Council, at which only Council members vote. In the State sphere the conditions are much the same, except that they are stricter in Victoria, where M.P.'s cannot accept office in a coalition without the approval of two-thirds of the central council; at meetings of the party, ministerial members "shall deliberate as and vote as members of the Country Party and not as ministers of the Crown"; decisions of the Cabinet "shall not be binding on such Ministers at such Party meetings"; and members must vote with a majority of the party, even on questions outside the platform and policy.⁷⁵

When the Country Party forms a coalition with the Liberals, it adopts the Labour practice of electing its own Ministers. The Liberal leader is thus forced to accept whatever Ministers the Country Party insists on, although he may find them personally unsuitable. In addition, the Country Party attempts to nominate the portfolios which its Ministers will hold. In this way it hopes to gain strategic offices in the government, especially those which deal with rural questions. The reader will readily imagine the difficulties which such a forced marriage creates; differences of opinion are frequent within a Liberal-Country coalition, and resentment between the parties often becomes an important factor in political change. For our purpose here, however, what is important is the fact that the Country Party is a non-Labour party which learnt the lesson of Labour "solidarity" and discipline, and has applied that lesson to its great advantage.

XI

It will now be seen how far party discipline has developed since the anarchy of the early colonial parliaments. The discipline which Free Traders and Protectionists were struggling unsuccessfully to exert in the 1880's is now the order of the day. Australian parliaments present the spectacle of three well-drilled political parties, each with regular caucus meetings, and each with a powerful outside organisation which decides strategy. The parties are all linked with major interest-groups outside parliament, but in different ways. Labour's link with the trade unions, through conferences and executives, is direct and unambiguous. The Country Party's link with the major farmers' organisations, which was strong and open at the time the party was formed, is now concealed by making those organisations' leaders

“trustees” for the party; but the amicable connection remains. The Liberal Party’s previous incarnations had “consultative committees” consisting of major interests in industry and commerce. To-day there are no such committees, but informal relations still exist. In recent years the task of anti-Labour propaganda in election and referenda campaigns has been largely taken over by special fund-raising bodies.⁷⁶ The disciplinary influence of outside organisations is felt frequently by Labour, less frequently by the Liberals (except in some time of crisis, when the pressure is heavy), and rarely by the Country Party, except in Victoria.

This gradation of pressure is typical of the parties’ support in the community. As we have seen, faction-fights within the trade union movement lead to turmoil in Labour’s supporting organisation, and this is communicated to the parliamentary party: “solidarity” is a force which is exerted in the interests of whichever group happens to be on top at the moment. The Liberals, on the other hand, have no similar tradition of “solidarity” and are united by nothing more than a general desire to limit the influence of Labour ideas and legislation. The various interests which the Liberals represent—industrial, commercial, professional, white-collar—are not bound closely together, and they sometimes clash. It is to be expected, then, that they will not approve discipline for the sake of discipline, but will apply it only when it seems strategically necessary. The Country Party, however, represents the most “solid” interest of all—the country demand for marketing schemes, public works, decentralisation of government and the curbing of unionism. It is not surprising, then, that the Country Party provides, on the one hand, complete disciplinary machinery, and, on the other, a natural solidarity which makes the machinery, in most cases, unnecessary. But it is there if it is wanted.

XII

The contrast with Britain is instructive. There, outside organisation has gone even further than in Australia, but the M.P. has been left much freer from control and instruction. Cabinets are not elected, and they do not meet their back-benchers regularly to discuss and decide policy, as is done in Australia. The Prime Minister still remains a figure with great power, more than he possesses in Australia, no matter which party he belongs to.⁷⁷

Obviously we shall look for reasons for this difference, not so much in a greater British aptitude for politics (though that may be a factor), as in a difference of circumstances. Australian society, as we saw earlier, has never given its politicians much status. They have always been servants of their constituents, men who were sacked if they did not provide railways, roads, water supply, better working conditions, tariffs, marketing schemes, and the other aspects of the “ample

government”⁷⁸ which Australia has always demanded. These bread-and-butter questions have always dominated Australian politics. In Britain, on the other hand, the M.P. still has around him the threadbare mantle of the 18th and 19th centuries, the remains of that “deference” which Bagehot regarded as at once the most characteristic and most valuable aspect of British political life. While the enlargement of the franchise in the late 19th century demanded special organisational means of swinging mass opinion behind one or other of the major parties, the individual M.P. was left without the same heavy surveillance from a central party executive as has characterised Australian politics. To-day the British Labour Party finds that the “crypto-Communist” has sometimes to be destroyed by disciplinary action; but neither Labour nor Conservative parties use the same devices, with the same day-to-day effectiveness, as their Australian counterparts.

If, however, British politics continues to develop along its present lines, with more and more state control and a more “economic” set of issues at each general election, then we may expect a tightening of British party discipline along something like Australian lines. It is bread-and-butter issues, on a national scale, that bring discipline to the parliamentary institutions of a democracy.

24 | THE PLACE OF FINANCE COMMITTEES IN NON-LABOR POLITICS, 1910-1930

B. D. Graham

[The] enumeration of the different "external organizations" which may bring about the creation of a political party would not be complete without mention of the action of industrial and commercial groups: banks, big companies, industrial combines, employers' federations, and so on. Unfortunately here it is extremely difficult to pass beyond the bounds of generalizations and hypotheses, for such action is always cloaked in great discretion. In the *Encyclopaedia of Social Sciences*, E. H. Underhill demonstrates the part played in the birth of the Canadian Conservative party in 1854 by the Bank of Montreal, the Grand Trunk Railway, and by Montreal "big business" generally. Similar influences could no doubt be discovered at work in the formation of almost all right-wing parties; but on this point we have for the most part at our disposal only presumptions (well-founded, it is true) but not evidence: very tactful investigations would be required to make clear the forms and degrees of influence exerted by capitalist groups on the genesis of political parties.¹

It was between 1906 and 1910 that the continued expansion of the Australian Labor Party forced the diverse non-Labor groups to form united Liberal Parties, a significant federal "fusion" of the former Free Trade and Protectionist Parties taking place in 1909. Following the war-time split of the Labor movement over the conscription issue, most of these Liberal Parties joined with the conscriptionist wings of the divided Labor Parties to form united National Parties, which remained the dominant non-Labor force until 1931, when they were reorganized as the United Australia Parties.

Although the parliamentary histories of these successive groups are well known, little has been written about the nature and working of their extra-parliamentary organizations. Their members maintained that they were beyond the influence of outside interests, and self-righteously condemned the roles of the trade unions within the Labor Party and of the farmers' and graziers' organizations within

the Country Party. That this claim was, to say the least, exaggerated, has been suggested by L. F. Crisp in his *Parliamentary Government of the Commonwealth of Australia* (1949)² and by Aaron Wildavsky and Dagmar Carboch in their recent studies of the 1926 referendum and 1929 election campaigns.³ Not only have these writers revealed the pattern of interest connections which underlay the parties, but they have thrown light on the role of various semi-secret finance committees in supplying funds for their electioneering and organizing purposes.

The political function of the finance committees needs to be clearly established. Were they, as Labor members suggested during the 'twenties, the means by which sinister capitalists manipulated the non-Labor parties,⁴ or were they much milder organizations with limited powers? Did they influence the policies of the Liberal and National Parties to any significant extent; from what sources did they draw their funds; how much money did they handle; how were they organized; what relationships did they establish with the parliamentary parties and with their leaders? These questions, for all their importance, may never be answered satisfactorily, but it is necessary that any information bearing on the finance committees should be evaluated as it comes to light. As an approach to this task, this paper will endeavour to establish the role of the finance committees in the affairs of the Liberal and National Parties between 1910 and 1930.

I

1. THE FINANCE COMMITTEES OF MELBOURNE

Founded immediately after Labor's victory in the 1910 federal election, the Constitutional Union of Melbourne supplied money to the Victorian Liberal Party's electoral organizations, the People's Party, the People's Liberal Party and the Australian Women's National League (A.W.N.L.), from 1910 to 1917. At a luncheon attended by representatives of these organizations, the Constitutional Union's President, William Riggall, expressed his pleasure

that cordial relations had been established between the Constitutional Union and the Liberal political leagues. The function of the former body was to collect funds, to enable these political bodies to properly organise their forces for effective service in Federal and State elections. All friends of the party should subscribe freely to the central fund of the Constitutional Union, just as was done in the case of the big political parties in England, and as the Labour Socialists themselves did in Australia, so that the effective organisation of the Liberal party could be fully achieved.⁵

Some indication of the Union's political importance is shown by the fact that, in October 1915, two of its representatives, H. Bremner

Lewis and John West, were allowed direct access to the state premier, Sir Alexander Peacock, whom they urged to work for the state Liberal Party's unity in view of the expected campaign against the federal Labor Government's 1915 referendum proposals.⁶

After the Victorian National Party was formed in 1917, the Constitutional Union became known as the National Union, and immediately set about reducing the number of conflicting non-Labor electoral organizations then in existence, for, at this stage, the three pre-war Liberal organizations were co-operating with a National Labor Party, with branches of the newly formed National Federation and with a scattering of campaign committees left over from the 1916 referendum and the 1917 federal election campaigns. By 1918, the National Union had succeeded in welding all of these (except the A.W.N.L.) into a unified Victorian National Federation. Despite all its efforts, however, it was unable to persuade the Victorian Farmers' Union, which had just founded a small Country Party in the state parliament, to ally itself with the Nationalists. Harold Glowrey, the Farmers' Union acting secretary in 1917, spoke on a later occasion of his organization's dealings with John West, the secretary of the National Union.

He attended at the office of the Victorian Farmers' Union. . . . He told us that it was proposed by his union that the National Federation, the People's party, the People's Liberal party, and the Australian Women's National League should confer and form one party to fight against the Labour party, and he invited the Victorian Farmers' Union to join them. We put a pertinent question to Mr. West by asking him how it was to be accomplished. He said "It is simple. We find the money that enables these parties to function, and if they do not do it voluntarily we will cut off their sources of supply, and they will go out of existence." We refused to attend that meeting. It was held, however, and from that day to this neither you, Mr. Speaker, nor any other member has heard of the People's party, or the People's Liberal party. The Australian Women's National League did put up a fight. They said they were representing the women, and they succeeded in retaining their identity. Mr. West came to us again. He said, "My executive has considered the matter. We think that there is something in what you say. There should be a Farmers' Union to go round the country and organise the farmers for a nominal sum. If your executive will do that, we will give you as much money as you want, but there is to be one condition. It is that every politician elected under your auspices will accept the dictation of our body in regard to matters brought before Parliament."⁷

The Farmers' Union was able to retain its financial independence by levying a high annual membership fee of £1 per member.

Although in 1917 the National Union rallied business interests to the support of the Hughes federal government, it was later to reflect the discontent felt by many of these with the ministry's post-war policies. Graziers and mixed farmers never forgave the Hughes

administration for the meat-price fixing regulations of 1918; graziers, importers and mining companies were disappointed by the increased protection afforded by the Massy Greene tariff of 1921; the Employers' Federation and the Chamber of Manufactures, while they benefited from the increased tariff duties, disliked Hughes' defence of the arbitration system; and conservatives generally accused his government of extravagance, of an undue interest in preserving such state enterprises as the Geelong Woollen Mills and the Commonwealth Shipping Line, and of a belief in a greater measure of economic control (as indicated by the 1919 referendum proposals). The unrest amongst the government's business supporters was expressed at two conferences of the National Union's subscribers, the first held in November 1921 and the second in October 1922.⁸ There is reason to suppose that it was partly because of the insistence of the former meeting that Hughes included S. M. Bruce, an advocate of retrenchment, as treasurer in his cabinet.

In 1922, some of the interests offended by Hughes' policies finally broke away from the National Union and formed their own Liberal Union as a means of financing a reformation of the pre-war Liberal Party.⁹ This Party, it was hoped, would work with the Federal Country Party to replace the Hughes régime with a more conservative administration. The 1922 federal election, however, resulted in the return of only two Liberals, J. G. Latham and W. Duncan Hughes, to the new parliament, while the National Party, although reduced in numbers, still remained the most powerful group in the House. In February 1923, on the insistence of the Country Party, but also, one suspects, because of the influence of the National Union, Hughes was forced to resign the Prime Ministership to enable Bruce to form a Nationalist-Country Party coalition.

In 1925, conservatives affected deep concern at the influence of bolsheviks within the trade unions. In October of that year the National Union conducted an extensive canvass of Melbourne firms for contributions to its funds as "insurance against Bolshevism". According to information given to *Smith's Weekly* in 1926 by a former official of the Union, the amounts subscribed by individual firms varied from £1,000 to £10,000, with the result that the Union was able to spend fully £59,000 during the federal election campaign of October-November 1925. Its funds were distributed between the English, Scottish and Australian Bank and the Commonwealth Banking Company of Australia, cheques being signed in one case by a firm of solicitors and in the other case by a solicitor and G. S. MacLean, the secretary of the National Federation.

During the campaign, Bruce, as prime minister and leader of the National Party, claimed that if the non-Labor parties were returned to power they would take steps to ensure that communists did not gain control of Australian affairs through their influence within the

Labor Party. A current waterfront strike was represented as the forerunner of a general revolution and Thomas Walsh and Jacob Johnson, president and secretary of the Seamen's Union, were arrested by commonwealth police and threatened with deportation under certain clauses of an Immigration Act passed earlier in the year. Sir William McBeath, as president of the National Union, had taken a great personal interest in the campaign and fully supported the proposal to deport Walsh and Johnson. He was extremely disappointed when the High Court disallowed the deportation of the two unionists, and, in February 1926, he cut short his holiday trip to Hawaii to return to Melbourne and press for a careful drafting of the Crimes Bill about to come before the first session of the new parliament. Bruce stood his ground and refused Sir William an advance copy of the measure. Even after the offended merchant finally obtained a copy and had gained an audience with the prime minister, he met with no success in his demand for a more stringent measure. At the end of a heated interview Bruce was reported to have exclaimed, "I am committed to the party and the country", to which Sir William was said to have replied ominously, "Very well. You know what that attitude means." In fact, Sir William was forced to accept the situation: the Crimes Bill was enacted without drastic amendment, Walsh and Johnson were not deported, and the Bruce-Page ministry was not turned out of office until 1929, and then by the electors and not as a result of a cloak-and-dagger intrigue inspired by the National Union.¹⁰

There were several other occasions during the 'twenties when the National Union tried to interfere with the National Federation's arrangements for both state and federal election campaigns. In mid-1920, for example, the two organizations differed over the choice of a Nationalist candidate for the Ballarat federal by-election,¹¹ while further differences led to the Union's reducing of the Federation's funds on the occasion of the 1924 state election.¹²

2. THE CONSULTATIVE COUNCIL OF SYDNEY

Indirect evidence suggests that Sydney business interests were supplying funds to non-Labor parties before the war,¹³ but it was not until 1919, under circumstances described by Dr. Evatt in his biography of W. A. Holman, that the Consultative Council, the Sydney counterpart of Melbourne's National Union, was formed. Holman, the leader of the state National Party, worked through his business associates Hugh McIntosh and P. T. Taylor, to interest "a number of powerful industrial and financial concerns" in a scheme to augment his party's electioneering and organizing funds. Sir Owen Cox, a wealthy shipper, became the leading business figure in the enterprise and was chiefly responsible for organizing the Consultative Council, of which he

became the chairman. Meanwhile, Holman wrote to businessmen proposing that the Nationalists should raise a sum of £80,000 every three years, of which £25,000 was to be set aside for each election campaign, state or federal, and of which £10,000 per annum was to be spent on organizational purposes.¹⁴

Close relations existed between the Consultative Council and the National Association, the New South Wales National Party's electoral organization. According to a letter published in the *Brisbane Courier* in March 1925, the Council "is composed of some of Sydney's best citizens, and works within the organisation [the National Association] as a finance committee. The secretary of the organisation is also the secretary of this finance body, and the two bodies are housed under the one roof".¹⁵ That the Consultative Council made its funds freely available to the National Association is suggested by the latter's balance sheet for the year ending April 1929: not only does this show a credit balance of £7,459—a surprising figure in view of the heavy expenses which would have been occasioned by the 1928 federal election held only six months previously—but also places the Association's assets at a total value of £37,336.¹⁶

The radical policies of the Lang Labor government (1925-7) prompted the Consultative Council to lend its weight to the proposal, publicly supported by the Graziers' Association and the National Association, that a close electoral alliance be formed between the Country and National Parties. Sir William Vicars, a wealthy woollen manufacturer and a prominent member of the Council, was appointed to a small committee formed in December 1926 to arrange the details of the proposed alliance.¹⁷ J. T. Lang, the Labor premier, took the arrangement to signify "an understanding that the National Consultative Council will finance all approved candidates running in the interests of the Coalition".¹⁸ There is no evidence available as yet to back up Lang's claim, but it may not be very far from the truth. In the following year, the combined National and Country Parties won a close-fought election campaign and subsequently formed the Bavin-Buttenshaw coalition ministry.

3. THE FINANCE COMMITTEES OF PERTH

In July 1916, a meeting of subscribers to the Western Australian Liberal Trust Fund was held in Perth and appointed a permanent committee of six members to "control all expenditure". The six members were Sir John Forrest and his son, David, S. Burt, a Perth solicitor, W. T. Loton, a director of the West Australian Bank, W. M. Burges, a director of the Western Australian Trustee, Executor and Agency Company, Ltd., and A. C. Gillam.¹⁹ Burges, Burt, Loton and Gillam all held positions on the executive of the Western Australian

Pastoralists' Association. Little is known of the Committee's activities but it appears to have been disbanded by 1925, in which year Perth's business interests established a Consultative Council to collect funds for the Nationalist campaign during the 1925 federal election.

In 1926 this Council, reflecting the business community's concern over the Collier Labor government's radical policy, discussed with the leaders of the United and Country Parties the possibility of arranging a firm non-Labor electoral alliance for the 1927 election campaign. M. T. Padbury, the president of the Country Party's supporting organization, the Primary Producers' Association, told the delegates to his association's 1926 conference that the Consultative Council consisted of

businessmen and financial men who are sick and tired of the way things have been going on lately, and who are prepared to find a good deal of money provided a working arrangement can be brought about. Many thousands of pounds have been collected to help us in our work, and but for the arrangement that money would not have been subscribed. . . . We used to look upon those men as our enemies. They were keeping a good many producers going, and thereby grew fat while the other men got pretty white. We can deal with those people only through the co-operative movement. However, they have big interests in the State and are prepared to assist those who are against the Bolshevik movement.²⁰

S. J. McGibbon, chairman of the Consultative Council, announced at a meeting of non-Labor candidates in February 1927 that his organization was engaged in collecting £7,000 to finance the joint election campaign. He claimed that the Council's members represented "a cross-section of the community, inasmuch as all classes of businesses and professions were represented, and any advice they might give would represent, therefore, some sort of collective wisdom. The only hope for the country lay in an anti-socialistic Government".²¹ The electoral alliance was arranged but, although the two parties fought the election in close collaboration, they failed to achieve their object, for the Collier government was returned for a second term.

4. THE FINANCE COMMITTEES OF BRISBANE

As the electoral organization of the pre-war Queensland Liberal Party, the Queensland People's Progressive League was financed by a Queensland Liberal Fund Trust Committee, which in December 1913 appealed for £5,000 for the following year's organizing activities.²² During 1916 and 1917, the non-Labor forces in Queensland were reorganized at the parliamentary level into a unified National Party and at the electoral level into a National Political Council (N.P.C.), to which were affiliated the Queensland Farmers' Union and the National Party's regional electoral organizations. At the same time, a

N

National Union was established to collect political funds from Brisbane's business community.

Soon, the National Union began to play an important part in the National Party's affairs. In January 1918, its representatives attended a conference held to settle differences between the N.P.C. and the parliamentary Nationalists.²³ It again came into prominence in 1919, when the non-Labor forces were in a state of disorganization. This was the time when the Farmers' Union broke with the Nationalists and joined with the United Graziers' Association and the United Cane Growers' Association to form a Primary Producers' Union (P.P.U.) through which it worked to rejuvenate the parliamentary Country Party. In January 1919, the National Union informed the N.P.C. that its financial assistance was at an end, and the latter was forced to amalgamate with an organization supported by the National Union, the Australian Democratic Union, to form the National Democratic Council (N.D.C.). The new Council became the National Party's main electoral organization. After representatives of the National Union and the N.D.C. had conferred in March and April, the Union, reluctant to provide the revenue requested by the Council, agreed to recognize the new body's right to collect funds from the business community. In July, however, it changed its policy and informed the N.D.C. that it wished to remain the sole Nationalist collecting body. The N.D.C. refused to surrender its new right, but the National Union countered by providing funds for a unified non-Labor electoral committee (on which the rural organizations' P.P.U. was also represented) during the federal election campaign of October-December 1919. The N.D.C., without the connections or the resources to remain outside the committee, was forced to co-operate with it and to recognize the National Union's prior rights in the collecting field.

On 22 January 1920, a meeting of Brisbane businessmen decided to form a Consultative Council "to assist in organising the finances of the National Democratic Council". The Consultative Council was to consist of three representatives of the N.D.C. and "one representative of each trade, profession, or business desirous of being represented thereon". Besides the Council proper, the meeting also appointed a special sub-committee consisting of representatives of each of the trading, professional and business groups composing the Council. The sub-committee was authorized to appoint three representatives to attend the N.D.C.'s executive meetings as *ex officio* members.²⁴ This new effort to break the National Union's monopoly of the collecting field failed, for the latter, in a struggle whose outlines are obscure, was eventually recognized as the body responsible for collecting funds for the Nationalist campaign committee during the 1920 state election campaign.²⁵ George Brown, the N.D.C.'s chairman, said in May 1920 that he and his colleagues on the Council

are quite prepared to agree . . . that we are a powerful political body, but to suggest that we are powerful enough to mould as we like the men representing the whole financial interests of the State is a compliment we cannot accept. The 106 gentlemen who constitute the National Union are not only quite capable of managing their own affairs, but do so.²⁶

In 1925, when he disclosed much of the National Union's secret history in a series of detailed articles, C. R. J. Dahl suggested that, in 1920, the Union's subscribers insisted on the annual election of its executive members and replaced several of the former office-holders with new men. In later years, however, the old élite gradually reasserted itself: according to Dahl's account:

no election has been held since the first, when a number of the former members were passed out by the subscribers, and other business men chosen in their stead. Some of the new-comers, however, found that the "inner circle" had been re-established, that steps were being taken of which they had no knowledge and did not approve, and that some of the men who had been defeated re-appeared in the union ranks without election! Consequently they resigned.²⁷

In the last months of 1922 the National Union began a campaign to force the United (formerly National) and Country Parties to amalgamate, and, since the latter had just lost the financial backing of the United Graziers' Association,²⁸ it was in no position to offer continued resistance. The United Party, even after the Rockhampton "unity" conference of January 1923,²⁹ resisted the National Union's pressure and sought to compete with it in the collecting field for political funds. The Union thwarted this move and finally demonstrated the extent of its power during the Brisbane municipal elections held early in 1925. At this stage the *Brisbane Courier* and a small group of the United Party's members launched a public attack on the Union, but a special meeting of the latter's subscribers, held at the Union Bank Chambers, Queen Street, on 12 March 1925 expressed complete confidence in the executive and recorded "its favourable appreciation of the methods adopted in dealing with funds".³⁰ The remainder of the year was marked by tortuous faction fighting within the parliamentary non-Labor parties, and by occasional attacks against the National Union. Finally, in November 1925, the fusion of the Country and United Parties was completed and the new Country and Progressive National Party was organized in time for the 1926 state election campaign.³¹

5. THE FEDERAL ROLE OF THE SYDNEY AND MELBOURNE COMMITTEES

Although there is proof that they existed, little is known of the activities of the National Unions of Adelaide³² and Launceston.³³ It is clear, however, that both the National Union of Melbourne and the

Consultative Council of Sydney provided financial assistance not only to their own state parties but also to the non-Labor parties in the smaller states. The Sydney body made Queensland its special responsibility while the Melbourne Union catered for South and Western Australia and for Tasmania. J. Denham, the Liberal premier of Queensland in 1913, admitted to a meeting of his supporters that, in the 1912 Queensland state election, the Liberal Party had obtained

£4000 from the South, but it did not come from trusts and combines . . . it came from people with interests in the State. It was understood that those in New South Wales should come to the aid of Queensland and those in Victoria to the aid of other smaller and less affluent States.³⁴

On the occasion of the 1925 federal election the National Union of Melbourne made available substantial funds to each of the South Australian, Western Australian and Tasmanian National Parties,³⁵ and there is every reason to suppose that it supplied these parties with state election finance as well.

II

Such general conclusions as may be drawn from the above information must necessarily be tentative. It is obvious that the finance committees differed in their character and function from state to state and that the political situations within which they operated also varied a great deal. But some attempt to evaluate their significance must be made.

From the evidence available, it would appear that they were usually small bodies representative of the different sections of the business community, some of which were appointed by meetings of subscribers while others functioned as permanent non-elective groups. They frequently had special rooms at their disposal, and employed one or two salaried officials such as a secretary and a treasurer: their chairmen were often prominent members of the commercial élite (for example, Sir William McBeath in Melbourne, Sir Owen Cox in Sydney, R. J. Archibald in Brisbane and S. J. McGibbon in Perth). The committees had always to be prepared to justify their activities to their subscribing interests: the meetings of subscribers held in Perth in 1916, in Brisbane in 1920 and 1925, and in Melbourne in 1921 and 1922 appear to have discussed administrative problems, financial matters and, in the case of the latter, government policy. Seen in the context of the business world, the finance committees, as institutions, presented two facets: on the one hand they were convenient bodies for the discreet collection and distribution of political funds, while on the other they could act as general pressure groups in relation to non-Labor governments.

According to scattered references in newspapers, the committees drew subscriptions from a wide range of interests—private trading

banks, insurance companies, graziers' organizations, professional associations, land and station firms and various trading, mining and industrial companies. From confidential information given the author, it appears that the secretary of a particular finance committee would send requests for funds to each affiliated interest, specifying in a circular letter the total amount needed and the purpose for which it was required. The flow of contributions from a particular firm tended to vary from year to year according to its directors' judgment of the political situation and the extent to which the firm's interests were being affected by governmental policies. The finance committee's secretary, if the practice of the Melbourne Union's secretary was typical, would then deposit the funds in special bank accounts. How much money did the finance committees handle? We know that in 1913 the Queensland committee was asking for £5,000 for organizing purposes, that in 1927 the Perth committee was collecting £7,000 for a state election campaign, that in 1919 Holman wanted Sydney's Consultative Council to collect £80,000 every three years and that in 1925 Melbourne's National Union spent £59,000 on the federal election campaign. Although comparative material is scarce, these figures would indicate resources in excess of those commanded by the Labor and Country Parties at this time, and they certainly emphasize the importance of these committees in relation to the functioning of the non-Labor parties.

Indeed, the Liberal and National Parties of this period may be viewed at three distinct levels: at one level we see the parliamentary party posing as an independent body representing all interests in the community without fear or favour; at the second level, a respectable electoral organization, such as the Liberal Union of South Australia, the National Federation of Victoria and the National Association of New South Wales, would arrange the parliamentary party's election campaigns, select its candidates, and hold relatively ineffectual annual conferences of its local supporters; while at the third level, we find the finance committees discreetly collecting funds from business interests and making them available for the public electoral organizations, with their ridiculously low membership fees (1/- per annum in the case of the Victorian National Federation).

It is obvious that the distinction made in Australian politics between "parliamentary" and "interest" parties is an unreal one and that our political history will never be understood if the Liberal and National Parties are treated as different in kind from the Labor and Country Parties. The trading, manufacturing and professional interests served by the financial committees represent the "interest" equivalent of the trade unions in the Labor Party and of the farmers' and graziers' organizations in the Country Party; in other words, all four parties were financially dependent on extra-parliamentary pressure groups. If the party politics of the 'twenties, or of any other decade, are to

be seen in their total context, the relationships between each party and its supporting interests must be evaluated and compared.

Since so many of the finance committees' activities were carried on in secret, it is difficult to estimate the extent of their co-operation with the non-Labor electoral organizations. Brisbane's National Union was represented on the Nationalist electoral committees for the federal election of 1919 and for the state elections of 1920 and 1923;³⁶ the Consultative Council of Perth was actively concerned with organizing the non-Labor election campaign in 1927, and the National Union of Melbourne, according to one source,³⁷ was represented on the National Federation's executive in 1917. There are also references to joint meetings attended by representatives of the parliamentary parties, the electoral organizations and the finance committees, such as those held in Perth in 1927 and in Brisbane in 1918. On occasions, too, officials of the finance committees have gained direct access to heads of state, as in the case of McBeath's interview with Bruce in 1926, and in the case of H. Bremner Lewis' and John West's visit to Sir Alexander Peacock, the Victorian premier, in 1915.

However, the finance committees' political role was not as sinister as these examples would indicate. For the most part, the interests which contributed to their funds preferred to influence specific legislation through the agency of more accessible pressure groups, such as the Employers' Federation, the Chambers of Commerce, the Chambers of Manufactures and the United Graziers' Federal Council: there is no evidence to suggest that a particular finance committee ever interested itself in a special bill, or exerted pressure for particular concessions on behalf of a special interest. On the other hand, the finance committees did represent the business community's traditional concern for a private enterprise economy, and for a conservative approach to general policy matters; conversely, they reflected in a very direct manner its opposition to the Labor Party. There is a pattern in the attempts of the finance committees of Brisbane, Perth and Sydney to promote maximum non-Labor unity against the Theodore, Collier and Lang Labor governments respectively; significant also were the attempts of the National Union of Melbourne (and of the short-lived Liberal Union) either to depose Hughes from the prime ministership or to force him to moderate his government's economic and social policies.

Faced with the twin problems of attracting a middle-class vote and of appeasing the conservatism represented by the finance committees, non-Labor leaders must have encountered immense difficulties. If they attempted to institute economic controls, to encourage state enterprises or to defend the industrial arbitration system too zealously they ran the risk of alienating those interests which financed their parties' organizing activities and their election campaigns. If, on the other hand, they strove to placate their conservative supporters by

openly supporting *laissez-faire* economic policies, by criticizing the arbitration court and by discouraging state controls, they faced the prospect of alienating the middle-class vote and thus of inviting electoral defeat. If, in desperation, they tried to make themselves independent of the finance committees they were likely to split their parties and lose the fight in the long run. Seen from this standpoint, the rapid succession of non-Labor leaders and parties which characterized Australian politics between 1909 and 1944 becomes more comprehensible.

25 | GROUP INTERESTS AND THE NON-LABOR PARTIES SINCE 1930

R. S. Parker

NOTES ON NON-LABOR PARTIES IN NEW SOUTH WALES SINCE 1930

In 1931 the spectacular course of the Lang regime provoked various groups who despaired of effective resistance by the moribund Nationalist organization into forming political quasi-parties of their own. Prominent among these were the Northern, Riverina, Monaro and Western "new State" movements representing rural interests, and the "New Guard" and "All-for-Australia League" promoted by alarmed businessmen and suburbanites in Sydney. However, before the 1932 elections the regional movements had sunk their political identity in a revived United Country Party (August 1931) and the A.F.A. threw in its lot with the nascent United Australia Party, while the New Guard, under its "leader", Colonel Eric Campbell, and the swashbuckling furniture dealer, de Groot, contented itself with some pseudo-military demonstrations and some questionable campaigning for the U.A.P. at the elections.¹

After its defeats in the Federal election of 1940 and the New South Wales election of 1941, the U.A.P. lost impetus and enthusiasm as well as popular support. It was largely discontented elements from within the New South Wales U.A.P. that formed the Liberal-Democratic Party, and former U.A.P. supporters among white-collar ex-servicemen that formed the Commonwealth Party, both during the early part of 1943. Towards the end of that year, with a State election approaching in 1944, the leadership of the U.A.P. was induced by the Institute of Public Affairs, its main financial backer, to hold a unity conference with the two smaller groups. The conference broke down on the refusal of the Liberal Democratic Party representatives to accept the old U.A.P. paid officers and headquarters in Ash Street as the basis for a new organization, and the Liberal Democrats fought the 1944 election as a minority party, winning no seats, while the Commonwealth Party merged with the U.A.P. Opposition as the

Democratic Party.² At the end of 1944 both of these purely New South Wales parties joined with representatives of the U.A.P. and similar groups from other States in setting up the Liberal Party of Australia which continues as the main non-Labor party in New South Wales.

THE NATURE OF NON-LABOR INTERESTS AND PARTIES IN AUSTRALIA

The problems of political organization among non-Labor groups were summarized in the following way by Sir F. Eggleston:

The residents of cities and towns, professional classes, business men, traders and financial organizations . . . had no common interest which could be served by political action. . . . Parties of the traditional type interested in the established order have been greatly handicapped. . . . Political policies have always tended against wealth and capital. The political power of financial interests and wealthy men is negative. Their economic power indeed is no less great. Political action, unfavourable to capital, has been justified as an attempt to compensate for the economic power of wealth, but such attempts have been quite unsuccessful. The result is that the capitalist is disgruntled, deficient in public spirit, and unwilling to give up his economic and financial power, but conscious that the assaults of the politicians are really ineffective.³

Shorn though it is of its more inconsistent sentences, this passage still typifies Eggleston's half-conscious predilection for provocative paradox: financial interests and wealthy men are politically defenceless. But their economic power is unassailable. They know this. But they are disgruntled and dislike all political action. Eggleston is here offering a modified version of the thesis adumbrated by Bryce and popularized by Sir Keith Hancock, that Australian conservative parties are parties of "resistance or caution", representing "residual" interests that are attacked by the aggressively positive policies sponsored by Labor and Country parties on behalf of homogeneous, strongly organized producer groups.⁴

But if the conservative party seems to play a passive role, this is precisely because the major interests it stands for are protected by a far stronger bulwark than parliamentary legislation—the structure of the economic system itself. Government prescribes conditions of work, standards of health and cleanliness, fair trading practices, and supplies railways and roads, harbour facilities, a stable currency, and law and order to help the economic system to work. But in the basic determination of what shall be produced and how much, and what shares owners and others shall have in the proceeds of industry, government remains on the periphery. The crucial decisions which develop and shape the economy are still made largely by private

capitalists—financiers, manufacturers, traders, pastoral companies, farmers. Other groups, and particularly wage-earners, organized or not, have neither achieved the power nor sought the responsibility of helping to direct the productive and distributive process. Very little has happened under the “welfare state” in Australia to alter these fundamental facts. The main contributions of the government are to alleviate fluctuations and to redistribute a certain amount of income through taxation and social services, levies and subsidies. Even the elaborate machinery of arbitration and wage-fixing barely enables wage-earners to keep pace with the incomes of owners of property—and this often at the expense of more defenceless groups. As an Australian economist has recently remarked:

It is important . . . to realise that today successful wage demands are only to a minor extent achieved at the expense of profits, because business firms in general fix their own prices and can protect their own profits. The important exceptions to this are: firms, mostly farmers, producing for export . . . ; secondly some firms who produce in keen competition with imported goods . . .⁵

In the light of these facts, it would be reasonable to depict the Labor and Country parties, but not the urban conservative parties, as being on the defensive, fighting with clumsy political weapons to preserve and enhance the interests of their constituents against the natural tendencies of the established economic order.

If principle had proved as important in our politics as the infant party system seemed to promise, the Liberal Party and its predecessors would have been more consistently on the offensive against what Sir Keith Hancock himself called our “settled policies”: pensions and social services, arbitration, White Australia and protection, the basic wage, bounties, subsidies, and marketing schemes. Their relatively passive role may be partly explained in terms of the very broad hypotheses that have been discussed above. But this role can be further illumined by a more detailed examination of their relations with interest groups and the electorate, and especially of the question of finance.

“THE PARTIES OF TOWN CAPITAL”?

In the first place, serious dilemmas arise from the complex nature of the interests that have looked to the conservative parties as their political instrument. This complexity emerges as soon as we look closely at a conventional Marxist generalization like that of Professor Crisp, that:

In Australia the anti-Labor parties are, first and foremost, the political organisations of the active controllers and often passive owners of private capital.⁶

Of course there is plenty of evidence for this kind of statement, and

some of it will be cited here in a moment. But it is only a part of the truth, unless we read imaginatively between the lines of the qualification, "first and foremost". We must obviously ask: "Who are the controllers and owners of private capital? How many of them, and which ones, take an active interest in the fortunes of the non-Labor parties? And what is the nature and extent of this interest?" What follows offers merely tentative answers to some of these questions.

At least in highly developed States like New South Wales and Victoria, there are great concentrations of urban and rural wealth, partly interlocked in the uncalled hands of "the Pitt Street and Collins Street graziers" (both phrases have been current). But it is not very original to observe that even among the large owners of capital, and certainly between them and many lesser entrepreneurs, the varied scope of the State's economic activity provides ample ground for conflicts of interest, sometimes on quite important issues. So if we look for signs of identification of particular groups with the political parties, we have immediate doubts about the place of the manufacturing industries, whose representatives on occasion have openly aligned themselves with organized labour,⁷ and which in fact have a long-term common interest with labour, as against commerce and primary industries, on issues like the tariff and internal development. Then again, there are the errant and elusive brewers, and perhaps other groups like them, who have certainly given tangible encouragement to Labor parties in the past, though no doubt they also are not above distributing their favours more impartially at times.

The rural and urban groups have often chafed at the bit when forced into political double harness, as in the coalition governments of New South Wales. Some of the inconsistencies in non-Labor government policies clearly have arisen from this cause. The Stevens government of 1932-39, for example, not only promoted State abattoirs and helped to keep private enterprise out of the electric light and power supply business, but actively continued the preceding Lang government's policy of moving towards a State monopoly of metropolitan passenger transport. This last policy was enthusiastically—some have said ruthlessly—enforced by the leader of the Country Party as Minister of Transport. It is exceedingly difficult for politicians professing *laissez faire* to work in harmony with a group of which Sir W. Harrison Moore once said that:

The real Socialists in Australia were the Country Party, for their policy pointed in the direction of the supersession of private property by public property. Farmers were being guaranteed against the risks of fluctuating markets, of droughts, storms and floods. Property was thus being freed from the liabilities usually associated with its ownership, and people . . . would then begin to assert that the property in question should be held in name, and in fact, by the community, instead of by the individuals who were endeavouring to exploit it.⁸

The Stevens government was on happier grounds when, like the Fuller (non-Labor) government in the 1920's, it sold to private bidders at bargain prices some of the only State industrial enterprises that had been a thoroughgoing success by capitalist standards (the crime, of course, being that their success had undercut private enterprise). This is the kind of non-Labor party policy (among many different policies) that most clearly reflects the influence of those large capitalist groups which, it seems, it would be reasonable to associate more particularly with the urban parties of the right. The most important of these may, on the little evidence so far analysed, be the importers, the wholesale traders, the retail magnates, and the private banks and insurance companies.

Here arises one of the central points I wish to discuss in this paper. What has been the nature of this association, and what have been its effects on the policy, finance, and organization of the urban non-Labor parties?

It may be that the groups just mentioned are the ones that Eggleston and Crisp really had in mind, because they are the ones that want least from the State and most resent interference or imposts by the State. J. A. McCallum, in the essay cited above, declared that "the main purpose of the United Australia Party is to keep the Labor Party out of office".⁹ Eggleston, though he also was speaking generally, and therefore loosely, about "the interests behind the Liberal Party", made the point that applies more particularly to these smaller groups:

On the whole these interests do not want any particular privileges; what they mostly want is to be left alone.

They want to be protected from, rather than to promote legislation, and only show an interest in politics when the question of taxation becomes important.¹⁰

This is a banal point, but it can be associated with another generalization of Eggleston's that is of central interest for this paper. He writes:

The conservative wing which is not a bit interested in politics, opposes on principle all advanced policy, but realises it cannot be successful in this resistance, and therefore interferes capriciously if the pockets of its members are affected, or if any attempt is made to subject it to controls, and, because this wing is the main contributor to the funds of the party, its influence cannot be denied. . . . The same could be said in similar degree of the attitude of the farmer. . . . The reason why the wealthy classes have so little influence on Australian politics is that they never show any political competence. Few wealthy classes are so unenlightened in culture and so lacking in ideas. Neither the business community nor the pastoralists have ever sent any considerable leader into Australian politics.¹¹

Of course this statement is too sweeping, particularly if applied to the nineteenth century or to the country parties. But it points to one

of the real issues that has bedevilled the urban non-Labor parties in the present century, at least in State politics. It has been a tremendous embarrassment to their active political leaders that their most powerful supporters have sought to influence party policies and personnel through finance while at the same time remaining aloof from active and overt engagement in the political arena. Speaking now of New South Wales, it can be said that among those who figure in the Sydney newspapers' "society" columns there has been nothing corresponding to the *noblesse oblige* of the English ruling class whose leading members counted it an honour to take public office, if only to preserve the ascendancy of their own kind. There is nothing corresponding to the Labor Party's flow of experienced leaders from the top ranks of the industrial labour movement. The outstanding political leaders who brought success to the forerunners of the Liberal Party were W. A. Holman (1916-20), an ex-Labor Premier, and B. S. B. (now Sir Bertram) Stevens (1932-39), previously a senior official of the New South Wales Treasury. Since what they mainly want from government is to be left unmolested and untaxed, the real leaders of business, finance, and the professions have been content to pull perfunctory financial strings from behind the scenes, leaving politics to "lesser men"—modest businessmen and professional people—who are public-spirited enough to undertake the thankless chores of party hack-work.

THE RELATIONS BETWEEN FINANCIAL AND COMMERCIAL INTERESTS AND THE PARTIES

Mr. B. D. Graham has given some account of the relationship which emerged as a result. It was described in 1943 by Mr. Warwick Fairfax, principal proprietor of the *Sydney Morning Herald*, in the following terms:

Broadly speaking, the financing of both the U.C.P. and the U.A.P. have been outside their own control. The large companies that have been providing the bulk of the U.A.P. war chest have been giving it not to the U.A.P. but to trustees outside the party organization. These trustees comprised the Consultative Council, a self-elected body, chosen by none but itself, constitutionally and legally representing none but itself. In actual fact it was composed of persons who, between them, controlled and influenced a great part of the industrial, commercial and financial companies in the State—that is to say, the largest of them. They appealed for money around the city. They got it. They gave it to the party. They were, naturally, in close touch with the party leaders, with whom they discussed party policy. Not unnaturally, party leaders paid a good deal of heed to their views.¹²

When the United Australia Party was in decline the Consultative Council gave way to a new body styling itself the "Institute of Public

Affairs", and declaring that its object was "to create an informed public opinion 'along sound lines' with regard to economic problems and the political and social welfare of Australia."¹³ The Institute acknowledged "no allegiance to any existing political party", but its membership and activities were similar to those of the defunct Consultative Council.

The influence of these otherwise unobtrusive institutions has often been evident at the successive times of crisis in the affairs of the urban non-Labor parties. There is evidence on one of these interventions, at the time of the dissolution of the United Australia Party late in 1943, which affords an intriguing glimpse of a relationship between the financial backers and the politicians which might be described as patriarchal, if not patronizing. As already shown, dissatisfaction with the leadership and achievements of the U.A.P. had led during the year to the organization among its former supporters of several rival groups, notably the Liberal-Democratic Party, the One Parliament for Australia Party, and the Commonwealth Party. Early in November 1943 these groups (excepting the O.P.F.A. Party) together with the U.A.P. itself and the Country Party, received invitations from the Institute of Public Affairs to send representatives to a conference, "as a preliminary to the calling of a public meeting to form a new political party", and to "discuss the recommendations adopted by the council of the N.S.W. branch of the U.A.P., and any proposals brought forward by any other political party or group".¹⁴ The object was clearly to try to unify the non-Labor political forces in the context of a disastrous defeat in the recent Federal elections and of a State general election looming in the following year. The conference was duly attended on 4 November by representatives of all the groups invited. The Institute of Public Affairs was represented by its President, Mr. (later Sir) Charles Lloyd Jones, its Director, Mr. A. E. Heath, Sir Sydney Snow, and Sir Norman Kater. These were all eminent figures in the world of company directors, chambers of commerce, graziers' associations, and clubmen. None of them was active in party politics, unless Sir N. Kater's unassuming membership of the Legislative Council since 1923 could be so described. According to press reports, this conference, from which press representatives were strictly excluded, was formally opened by Mr. Lloyd Jones, who then departed, leaving the political delegates to sort out their affairs as best they might.¹⁵

The point of this story, as I see it, can be stated as follows. The particular elements of town and country capital represented in the Institute of Public Affairs wanted to see in being a strong and united political party which would serve their interests. While such a party existed they were content to remain in the background, supplying finance and keeping party leaders apprised of their "views". When the party ceased to be an effective political force and split into frag-

ments, they felt it necessary to step in, point out to the politicians the error of their ways, and invite them to set their house in order. But they would not participate in the details of this process, nor take any public responsibility for their influence on the political process. The politicians were expected to do that—and given a free hand, so long as they were prepared to create an effective political organization amenable to continued clandestine influence.

Before examining the sequel it will be helpful to consider for a moment the significance of this situation from the point of view of the politicians. Their role was to a degree ignominious. It was their job to organize a political party, to hold its members together under banners of their own design, to get themselves elected, to fight the parliamentary battle, to form a government if possible, and to accept public responsibility for its policy. But in so far as this required money, the bulk of it would be channelled through an irresponsible junta who would expect services rendered for value received, without taking any of the risks or the stigma incidental to political activity. Furthermore, because of their Olympian detachment from the realities of political life, this junta would provide little in the way of positive guidance. They would simply want to disapprove of “objectionable” policies or leadership. Eggleston experienced this situation as a State politician in Victoria and is inclined to discount the junta’s influence on policy in that State. But he corroborates the other points made here:

The only instance I have ever heard of its interference was on one occasion when the leaders of the background organisation told the head of a party facing an election, who was supposed to have had no popular appeal, that, unless he handed over the leadership to someone else, the funds would not be forthcoming. I do not know whether the story was true or not, but the person selected by the organisation actually did lead, rather to the misfortune of Australia.

My experience of the personnel of this background organisation is that they know so little about politics that they could not effectively interfere. They have no ideas, and no guts. Several times, when my party was in difficulty, we appealed to the party Secretary to have some statement made by the public men who were prominent in this organisation, but they took panic at the suggestion and refused.¹⁶

For a political party operating in a parliamentary democracy, such a situation would seem bound to create intolerable strains. For the party as a whole there would be the strain of reconciling the need for popular support from below with the loyalty owed to the *deus ex machina* above. For the leader there would be the similar strain of maintaining party unity while striving to please the oligarchy which at any time might threaten his position. Surely these strains might account, at least in part, for some of the recurrent crises of organization and changes of leadership within the non-Labor urban parties.

Without a clear-cut interest to serve and a goal, however hazy, to aim for, party discipline was loose. The rank and file exerted little or no influence on decision-making. There was no pledge to bind the leadership, no policy to guide it, and no power inside the party to police it. Hence the leaders, whether in or out of office, were left to themselves to work out a pragmatic policy as they went along, or to drift without a policy. Even this looseness of organization could not prevent tensions from arising from time to time. There were many repetitions of the situation in New South Wales under the Stevens government in the 1930's when caucus became practically a dead letter and complaints about "the Government's aloofness towards the rank and file of the party" led to demands for the annual election of a leader and elective Ministries.

THE NON-LABOR PARTY STRUGGLES FOR EMANCIPATION FROM "THE INTERESTS"

To summarize what has been said so far, four sets of reasons have been suggested for weaknesses in the urban non-Labor parties before 1945. Firstly, they did not have the complete or wholehearted backing of all forms of town capital. Secondly, they had (as they still have) to contend with divergent demands among the groups which did accord them general support. Except on broad issues involving the rights of property and of employers, there is not the same homogeneity of interest among bankers, importers, merchants, and farmers—large and small—as there is among wage earners as such. Thirdly, they could not secure leadership from the really influential "captains of industry", who, relying mainly on the inherent forces of capitalist economics to preserve the interests of their class, were content to leave political activity to its junior representatives, while allowing them pocket money and taking a perfunctory interest in their efforts. Fourthly, the politicians themselves were embarrassed by their dependence on financial support from irresponsible sources which they could not openly acknowledge or justify.

At this point we come to the further dilemma which in some ways was the most serious of all. While these parties may have been "first and foremost, the political organisations" of—mainly—financial and commercial interests, on the other hand to vindicate their existence as parties, that is, to form a government, they must look far beyond these interests for majority electoral support. For this support they could rely upon the bulk of the magnates and self-employed professional people and their families, and perhaps three-quarters of people in the "managerial" class. They have not won much more than half of the small business and salary-earning groups. To make a majority they still needed an appreciable proportion—maybe a quarter to a third—of

the wage-earning class and, in country electorates, as many votes as they could get from dairymen and other farmers. Leaving aside the question of how far a party dependent on a voting support of this composition can be an "organ of town capital", let us consider the practical issue which the non-Labor politicians first faced squarely in 1944. In brief, they admitted to themselves that the occult cash nexus with "the interests" not only could not get a party's organizational work done nor win elections, but in view of the adverse publicity it was receiving at the time, it was a positive liability.

As a result, methods of raising finance formed a major issue in the conferences at Canberra in October 1944, and at Albury on 17 December 1944, when the warring conservative factions re-united in the Liberal Party of Australia. Representatives of the N.S.W. Institute of Public Affairs, and of similar bodies in other States, made it their business to be present as "observers" at these conferences and must have listened with interest to a debate on "whether a large number of business and commercial people wanted to keep their party contributions secret", and whether "organisations outside the party" should be allowed to provide the main financial support. In the course of this debate a Victorian delegate produced evidence that a canvass in his State had resulted in substantial contributions being made to the party's funds without passing through any intermediate organizations. It was later reported that in Western Australia the Liberal Party collected its own funds and put its National Union out of existence.

The low minimum membership fee adopted at the Albury Conference—2s. 6d. a year for adults and 1s. for juniors—was interpreted at the time as implying that the new party would not look to outside organizations for its main financial support. However, it remained constitutionally possible for the party to receive outside donations, whether from individuals or organizations.

The first task of the New South Wales Party was to fight a bitter by-election in Ryde (3 February 1945). There was an immediate need for funds, and the party accepted assistance from the I.P.A. on the understanding that no strings should be attached and that the party intended to set up its own financial organization and be entirely independent of the I.P.A. as soon as possible.

However, when the New South Wales Provisional Executive (appointed January 1945) made its first public appeal for general funds in March, the I.P.A. immediately countered with a circular to a large number of business and commercial men, obviously intended to divert their political offerings through its own hands. This led directly to the resignation of seven of the twenty-one members of the provisional executive, when they failed to pass a motion that the State Branch should "not accept any further funds from the Institute of Public Affairs in any circumstances". The dissident minority, led by the former head of the Liberal Democratic Party, described the

majority attitude as “a betrayal of the spirit of Canberra and Albury”, and declared that the I.P.A. was aiming at “that financial control over the Liberal Party which it held over the United Australia and Democratic Parties”.¹⁷

It was not until the Provisional Executive was replaced by the first elected State Council in June 1945 that the party hierarchy began to accept the idea of financial independence from bodies like the I.P.A. They celebrated the Council's formation with a mild resolution, intended mainly to soften some of the current criticism, that party branches must not accept funds from corporations or individuals unless they were offered unconditionally. This was a rather empty gesture, as there was no evidence that the I.P.A. attempted to control the funds it provided. Its real danger was that it deflected part of the potential flow of direct contributions to the party, and it could decide how much to provide, and when. If the party did not do what was expected, the contributions could cease. Full realization of this soon led to the rule which still prevails in New South Wales and is said never to have been infringed. Donations may come from individuals or from firms, but not from any outside organization such as the I.P.A., nor even from trade groups or associations.

The Liberal Party in New South Wales was the direct heir of the U.A.P.-Democratic Party to the extent of inheriting its members of Parliament, its paid officers and premises, its parliamentary and conciliar leaders, its general policies, and most of its rank-and-file members. Its most important innovation was this new approach to party finance.

The Institute of Public Affairs has not gone out of existence, and with other bodies like the Constitutional Association, the Sane Democracy League, and the Chambers of Commerce and Manufactures, it continues to provide a good deal of indirect assistance to the Party without having any institutional or financial connection with it. These bodies, all nominally neutral in party politics, spend a great deal of money on anti-Labour and anti-union advertising, overt or disguised.

It is clear that the ultimate sources of most of the Liberal Party's funds must be much the same as for those of its predecessors. The basis of the new Party's claim that it has won emancipation from “outside control” is that, having now built a fund-raising organization of its own, the Party cannot be held to ransom by a self-appointed coterie threatening to cut off a large part of its supply. As a Party official has put it: “If they give large sums and they withdraw a large sum then you would be in trouble. You can afford to offend a lot more little people than you can a few large bodies.”

The changed basis of Liberal party finance may be characterized as a bid for self-respect by the professional politicians. By the accounts of its own officers, it has achieved remarkable success, largely because it has been accompanied by the necessary corollary—

a widely-based party organization modelled closely on that of the Labor party. There are important differences, of course, that lie beyond the scope of this paper, but there is little question that the Liberal Party is a more autonomous, a more democratic, and a more smoothly functioning political organization than its predecessors. Its leaders wish it to become a national party, with electoral support spread across all classes and based on a positive policy. Can these laudable aims surmount the persistent facts that the Labor Parties will continue to have a peculiar claim on the votes of trade unionists, and that the dominant elements of town capital can still look to no other political agent than the Liberal Party?

26 | TRADE UNIONS AND LABOUR GOVERNMENTS IN AUSTRALIA: A STUDY OF THE RELATION BETWEEN SUPPORTING INTERESTS AND PARTY POLICY

R. M. Martin

A glance at the structure of the Australian Labour Party is enough to show the party's organizational dependence on trade unions of manual workers. It is in this sense, but only in this sense, that J. D. B. Miller finds it possible to describe the Labour party as "emphatically a trade union party",¹ for he and other observers (*pace* the publicists) now generally accept that a similar identification is not possible in the broad field of party policy and, more particularly, of Labour government policy. It is argued, on the one hand, that electoral realities have compelled Australian Labour governments to make room for the claims of interests other than the unions, and, on the other hand, that the unions are in any case so divided among themselves that it is difficult to find "a trade union policy".² The general conclusion drawn from this argument is that, as S. R. Davis puts it, no major interest is "wholly indulged or wholly ignored" under Labour, any more than non-Labour, governments, with the reservation that certain groups may to a minor extent tend to benefit more than others from the policies of particular governments.

There is, of course, room for preference. Is there, however, evidence of *great* preference? There are in each [Australian] State a few pieces of legislation which are characteristically moulded to suit the favourite clients of each party. But aside from these few platform show-pieces, a scrutiny of the legislation passed in the six States over the ten years, 1946-55, does not reveal any dominating preferential relationship between the party in office and its "supporting interests".³

The argument I wish to advance here is that in certain circumstances there is a consistent "trade union policy", and one, moreover,

which Australian Labour governments have been prepared to apply in spite of what appear to be "electoral realities". As a result, while it is admittedly futile to look for a "dominating preferential relationship" between Australian trade unions and Labour governments, in terms of policy, it is wrong to conclude that this means there can be no significant preferential relationship at all between them. The present article is thus intended to go some way towards meeting Henry Mayer's complaint, "that the analysis of Australian parties in terms of the interests behind them breaks off when it comes to the crucial question of the context of party policy"⁴—without at the same time predicating that the parties are nothing more than the interests behind them.

I

The initial question is: in what circumstances can a government's policy decision be regarded as reflecting a *preferential* relationship between that government and an interest group?

In the first place, the term "preferential" necessarily implies that a choice has been made between at least two would-be recipients, and that what has been granted to one is in some sense incompatible with what would have been granted to the other had it been preferred. In other words, a strictly preferential relationship presupposes conflicting demands, and it can exist only when the satisfaction of one demand has involved the frustration of another. In the present context this can be translated into the proposition that *opposition* is an essential prerequisite of a preferential relationship between a government and an interest group. Thus there is no preferential treatment involved when a government concedes a claim which no one opposes.

In the second place, given the presence of opposition, a preferential relationship may be quite simply specified by postulating that such a relationship exists when a government adopts a policy which an interest group regards as satisfying the interest it stands for.⁵ Defined in this way, however, the concept is of doubtful value as an analytical aid if we wish to discover *differential* relationships between a government and particular interest groups, in terms of applied policy. It is of little help in this connection primarily because it not uncommonly happens that two or more interest groups consider their interests satisfied by the same policy (for example, trade unions and manufacturers in the case of a protective tariff), and they thus appear to share a preferential relationship with the government. They may, of course, be thought of as sharing equally or unequally, but while one may conceive of different degrees of preference, it is quite another matter to discriminate between the sharing groups by weighting such differences in a meaningful way.

To avoid this difficulty, therefore, a sharper and more restricted conception of preference is needed, a conception that will make it

possible to isolate policy decisions in which not only preference but also the recipient of that preference is unequivocally indicated. In the following attempt to provide such a conception, the frame of reference is limited to the organized interest groups of farmers, graziers, manufacturers, traders and manual workers, which are customarily regarded as constituting the main "supporting interests" of the three major Australian parties.⁶ In view of the multiplicity of supporting interests and the frequency of coalition governments on the non-Labour side, the conception outlined below is more easily applied to the Labour side, and is framed with particular reference to trade unions and Labour governments.

For present purposes, a given government policy may be regarded as providing evidence of preference for the governing party's supporting interests if two principal conditions are simultaneously satisfied. (1) *Unanimity*: the government party's supporting interests are united, or substantially so, in their support for the policy. (2) *Exclusiveness*: the other parties' supporting interests are substantially united in their opposition to the same policy. It is to be emphasized that both these conditions must be satisfied at the one time in relation to a given policy decision.

The first condition does not necessarily involve literal unanimity, but it does require something fairly close to it (vagueness here is, regrettably, unavoidable). The condition is not satisfied, for example, by the bare majority vote of a Labour party or trade union conference; the vote, especially in the latter case, must be at least "overwhelmingly" one-sided. Where support for a particular proposal is something less than overwhelming, its translation into policy by a Labour government entails, in effect, an expression of preference for the views of one group of unions against those of another substantial, if minority, group. Preference, in these circumstances, can hardly be said to have been given to Labour's supporting interests as a group.

Joined to the first condition of unanimity is the second condition of exclusiveness. Preference is clearly exclusive if it is given, in a specific case, against the objections of all but the beneficiary. Thus if the trade unions promote a particular policy and all the other major interests oppose it, a government's adoption of that policy is as clear-cut a case of preference as one could hope to find.

Of course, the notion of such a preferential relationship hinges on the assumption that if the conditions of unanimity and exclusiveness are satisfied in relation to a policy proposal, and if a government formally adopts it, then the government has *deliberately* given preference to the interests promoting the proposal. The weakness in this assumption is obvious enough, and is common to all causal propositions purporting to explain social behaviour in so far as they involve ultimately untestable statements about human motives—in the present case the

motives of government leaders in making a particular policy decision. By the same token, such propositions are tenable only to the extent that one accepts the possibility of inferring motives from a sequence of observable events or actions. The conception of preference formulated above is designed to delimit, as closely as practicable, the observable circumstances which appear to give strongest support to a causal proposition of this kind. It is, therefore, an extreme conception which, in application, will inevitably exclude many policy decisions likely to have a preferential element. It does not, for example, extend to cases of "shared" preference where the preference given to a single interest cannot be disassociated from that given to another interest. Nor does it cover situations in which the non-recipient interests are divided between neutrality and opposition, since not merely opposition but opposition from all except the preferred interest is an essential requirement. The important point, however, is that this conception of preference directs attention to situations in which there is likely to be greatest justification for speaking of a preferential relationship between a particular government and a particular interest. In other words, it specifies a type of situation which gives reasonable grounds for assuming (with some confidence, if nothing like complete certainty) the operation of the motive that is implicit in this notion of a preferential relationship—an *intention* on the part of government leaders to give preference to a particular interest.

II

In the statement quoted earlier, S. R. Davis draws a distinction between preference in a minor key, and "great preference" or a "dominating preferential relationship". The only hint he gives about the meaning of the latter terms (and that on the side of Labour only) is when he quotes as relevant A. A. Morrison's comment on the long Labour rule of Queensland: "it would be difficult to say that this State has advanced much further along the path to socialism than [non-Labour] South Australia. . . ." ⁷ Davis, who recognises the trade unions as the Labour party's main supporting interests, thus implies that there *would* be evidence of a dominating preferential relationship, between Labour governments and the trade unions, *if* such governments had been more active in writing frankly socialistic policies into the statute books.

This argument, however, necessarily presumes that the great bulk of Australian union leaders are militantly socialist in temper, and, more than this, that they know fairly precisely what they mean by socialism—that the word is something more to them than an evocative catch-cry to be clothed only in vast generalities. Such an assumption is doubtful, to say the least. It is also an assumption that Davis himself

implicitly disowns elsewhere when he contrasts the “familiar . . . day-to-day industrial interests” of most trade unionists with the “rarefied ideological demands of a small doctrinaire wing”.⁸ He is thus in the position of identifying a possible dominating preferential relationship on the Labour side with socialistic legislation, despite the fact that he regards Labour’s supporting interests as being little concerned with doctrinaire socialism.

It seems that Davis has been drawn into this paradox by an apparent inclination to look on the notion of a dominating preferential relationship as being worth speaking about only in terms of the whole range of a government’s policies. For, clearly, evidence of such a relationship, defined in these terms, is likely to be found only if the supporting interests concerned possess some *Weltanschauung* which is radically different from that of the other supporting interests, and which may as a result give a distinctive flavour and direction to the broad sweep of a government’s policies. A socialist ideology, assuming it were faced with an opposing ideology or ideologies, would provide this ingredient.

However, in the absence of such a clear-cut ideological cleavage between the supporting interests of Australian political parties, we are forced to conclude not only, as Davis does, that there is no dominating preferential relationship (in his sense) between parties and supporting interests, but also that there *can* be no such relationship discernible in the statute books. This does not, of course, rule out the possibility of a government’s policies revealing *any* preferential relationship. What it does mean is that such a relationship, if discoverable, will reflect empirical rather than ideological considerations, and will be “dominating” within a limited policy area only. It will be determined, in other words, by the nature of the issue at stake.

Thus, before examining the policies of Labour governments for traces of a preferential relationship with the trade unions, the essential first step is to ascertain whether there is any class of issues on which (1) the unions are consistently most nearly united in their support, and (2) the non-Labour parties’ supporting interests are consistently most nearly united in opposition. It is in a Labour government’s performance on such issues, if on any, that a distinct preferential relationship will be evident.

III

Australian trade unions through their leaders express firm opinions on topics as diverse as hydrogen bombs and opera houses, but by their nature they are primarily concerned with economic topics. And even here, while they are deeply interested in many of the broader policy issues arising within the economic sector, their most intense and consistent attention is reserved for matters that directly and vitally

affect the working-lives of their members. This concentration of attention is reflected in continual agitation for higher wages, shorter hours and greater fringe benefits, particularly those involving more money or less work. It is in relation to these issues that the conditions of unanimity and exclusiveness are most consistently satisfied.

On the side of unanimity, claims for immediate industrial benefits of *general application* continually override factional and ideological divisions, and clashes of industrial interest, among the unions.⁹ For example, late in 1955 on the Queensland Central Executive of the Australian Labour Party, which was already split into warring factions, only one union broke an otherwise solid union front on a resolution directing the state Labour government to introduce three weeks annual leave legislation.¹⁰ Fifteen months later and eight weeks before the expulsion of the Premier, V. C. Gair, the issue was again before the Q.C.E. This time it was in the form of a motion which clearly indicated the critical nature of the decision, by threatening with disciplinary action members of the parliamentary group, supported by the right-wing union faction, who had opposed the three weeks leave proposal in Caucus. Even in these circumstances, the Q.C.E. recorded a vote of 51 to 11 in favour of the motion, the minority including the votes of only three of the right-wing unions.¹¹

It is to be emphasised that the claims relevant here are distinguished not only by the fact that they concern *direct* industrial benefits of the wages-hours-holidays type, but also by the fact that they are *general* in the sense that their application is seen as promoting the interests of unionists at large in more or less equal measure. The importance of this generality factor has been underlined by a union official, with ample experience of industrial action for sectional wage claims, who remarked during the campaign in 1962 for increased annual leave that this claim had "none of the features that cause disunity among the unions when the question of wages is being tackled".¹²

Union solidarity slackens markedly as soon as one moves from the circle of issues that clearly involve these direct and general industrial benefits. This is apparent even in the case of, say, penalties for striking and the legal regulation of union elections, which as general issues affecting the unions' freedom of action may be regarded as being only just beyond the circle. The "right" of unions to strike and to manage their internal affairs must still be referred to with public reverence by union officials, and can still produce formidable displays of solidarity. At the same time, the changing character of trade union politics in Australia since the war has helped to diversify attitudes towards restrictions on the use of the strike weapon, and, more openly, has led to a continuing division on the question of court-controlled ballots, along with a switch in official union policy.¹³

It often happens, of course, that the trade unions are officially

united in their attitude on general industrial issues of this kind, which do not involve direct industrial benefits; and they are also frequently found giving unanimous support to sectional claims for such direct benefits. But what distinguishes the unanimity in these cases from the unanimity evoked by claims for industrial benefits that are both general *and* direct is that, in the latter case, something more is involved than mere formal agreement, something which has to do with what might be called the intensity of support for a particular claim. Claims for industrial benefits that are both general and direct are almost invariably supported and promoted by the unions in general with much greater intensity than is usually evident in the case of general claims which fall outside the circle of direct industrial benefits. These variations in the unions' intensity of support have obvious and important consequences for the vigour and persistence with which different types of claims are pressed on government by the unions at large.

The further one moves away from the circle of direct industrial benefits, into the broader issues of economic policy and beyond to the hydrogen bombs and opera houses, the more glaring the cracks in the unions' solidarity tend to become. Thus in 1957, by contrast with its near unanimity on the three weeks leave issue (referred to above), the Queensland Central Executive of the Australian Labour Party split along strictly factional lines when it accepted, by 32 votes to 27,¹⁴ a watered-down motion criticizing the Petrol Bill, which raised contentious but non-industrial issues. This is not to say that substantial agreement among the unions is never found or is not, in some cases, customary on issues of this kind. Unanimity is, in fact, the norm when it comes to such principles as price control, rent control and higher social welfare benefits, though on others it cannot be predicted with as much assurance. Again, however, the question of intensity of support is important; and, generally speaking, claims of this kind are not promoted with the vigour and persistence that characterise union campaigns for industrial benefits. The narrower claims exclusive to trade unionists as producers tend to arouse greater enthusiasm among them and their officials than do the wider claims they share as consumers.

In any event, so far as the question of preference is concerned and whatever the position regarding the condition of unanimity, the second condition of exclusiveness is less certain to be satisfied when it comes to the broader issues. The non-Labour parties' supporting interests invariably oppose the major bread-and-butter industrial claims of the union. But on wider issues, such as credit restrictions, import licensing and monopolies control, one or more of these groups are often found sharing the unions' position, if not their reasons for taking it up.

IV

It has been argued above that the conditions of unanimity and exclusiveness are most consistently satisfied in relation to the unions' general claims for direct industrial benefits. Because of this, signs of a distinct preferential relationship between Australian Labour governments and trade unions (if there is one) are likely to be most readily discernible in the industrial policies of such governments.

Government policy may be examined at two levels: the level at which policies are formally adopted, and the level at which they are applied or administered. It is often necessary to take account of a government's performance at both these levels. In the following discussion, however, attention is confined to the first.¹⁵ Exclusion of the second level from consideration is justified for two reasons.

In the first place, the kind of policies relevant to this argument are, by definition, highly controversial, at least at the time of their formal adoption by government. Thus the mere fact of their adoption is politically significant. It means that, however government leaders may intend to administer such a policy, they have publicly committed themselves to it in spite of strong opposition to their doing so. For example, a Queensland Labour government enacted legislation in 1932 to enable the state Industrial Court to make awards of preference in employment to unionists. The provision was hotly disputed at the time and for many years afterwards, even though successive Labour governments soft-pedalled its administration by refusing to allow government industrial inspectors to institute court enforcement proceedings. The point is that this policy was publicly identified with Labour governments, as a result of the initial decision to adopt it; and the fact that their administration of it was less than whole-hearted did not enable them to avoid such identification in the eyes of the electorate. It is reasonably assumed that government leaders are not altogether unaware of this consequence of formal commitment, and that, therefore, their decision to adopt (or not to adopt) policies of this character by itself indicates the weight they have given to the various pressures brought to bear on them.

Secondly, the question of government administration is in fact comparatively unimportant when it comes to the policing and enforcement of the industrial policies with which the present argument is primarily concerned. Once these policies have been formally adopted, the unions themselves are for the most part capable of handling the administrative function. This is one of the reasons why, despite the failure of Queensland Labour governments to enforce preference to unionists awards, the level of unionization in Queensland is far higher than in any other state. The governments' administrative diffidence has been very much less important than the 1932 policy decision, so far as the practical application of the preference

to unionists principle is concerned. Similarly, in the case of long-service leave, three weeks annual leave and quarterly cost-of-living adjustments (referred to below), the unions are totally dependent on government action in one form or another for the formal adoption of these policies. Once this point has been passed, however, the unions are nowhere near as dependent on government action. They customarily police the application of the relevant statutory or award provisions and take steps to enforce them against defaulting employers, either through legal proceedings or by way of direct negotiation and industrial action.

For these reasons, then, it is sufficient for the purposes of this article to restrict consideration of government industrial policies, as defined above, to the point at which such policies are formally adopted. It is assumed that the nature of the relationship between Australian Labour governments and the trade unions in this policy area is determined primarily at this point.

V

Queensland Labour governments, as Morrison asserts, may not have gone any further towards socialism than have their non-Labour counterparts in South Australia.¹⁶ They have, however, gone much further towards satisfying the unions' central industrial aims. This is shown briefly by comparing the terms of the major industrial statute in each case, as it stood in 1956 before Queensland Labour's collapse. Thus the Queensland Industrial Conciliation and Arbitration Acts of 1932-55 prescribed a 40-hour working week, two weeks annual leave, one week sick leave a year, overtime rates of not less than time-and-a-half, and three months long-service leave; the South Australian Industrial Code of 1920-55 contained no corresponding provisions.¹⁷ The point of the comparison is heightened by the similar contrast between the way in which the legislation dealt with other less central issues such as strikes, preference in employment to unionists and union officials' right of entry into workplaces. More important, however, this contrast is not peculiar to the industrial policies of Queensland Labour governments and South Australian non-Labour governments. For despite variations in the performance of Labour in different Australian states, it is still possible, over a period of time, to draw a clear line between the policies initiated by Labour governments on major industrial issues and the corresponding policies of their non-Labour counterparts. This is indicated by the accompanying Table in which are outlined comparative performances on the key issues of long-service leave, three weeks annual leave and quarterly cost-of-living adjustments to the basic wage.

Labour governments have often shown themselves reluctant to fall in with major industrial claims advanced by the unions. They have stalled and sought compromises, and have sometimes publicly

Comparative Performance of Australian Labour and Non-Labour Governments on Three Policy Issues up to 1962.

Labour Governments	Non-Labour Governments
1. QUARTERLY COST-OF-LIVING ADJUSTMENTS TO THE BASIC WAGE: State authorities' policies after the federal Arbitration Court abandoned the system in September 1953.	
i. <i>State award workers</i> : Vic. (1953) & N.S.W. (1955) restored system by legislative direction. * <i>Qld.</i> , Industrial Court continued system. * <i>W.A.</i> (1953-55), restoration rejected by Legislative Council and state Arbitration Court; but (1955) Court restored system. * <i>Tas.</i> (1955), Chairman of wages boards restored system, then (1956) abandoned again.	Vic. (1956) repealed Labour's 1953 measure. <i>Qld.</i> (1961), Court to make adjustments only after formal hearing. * <i>S.A.</i> , no move to alter state Court's decision to follow federal Court (1953).
ii. <i>State government employees under federal awards</i> : Vic. (1953) & N.S.W. (1955) restored system by executive decision. ** <i>Qld.</i> (1953-7) & <i>W.A.</i> (1953-9), no move to restore. <i>Tas.</i> (1958) restored, then (1960) abandoned.	Vic. (1956) rescinded 1953 decision. <i>Qld.</i> (1957-), <i>S.A.</i> (1953-) & <i>W.A.</i> (1959-), no move.
2. LONG-SERVICE LEAVE: N.S.W. (1951) and <i>Qld.</i> (1952) applied to workers under state awards. Vic. (1953), N.S.W. (1955), <i>Qld.</i> (1955), <i>Tas.</i> (1956) & <i>W.A.</i> (1958) applied generally to federal as well as state award workers. <i>Tas.</i> (1960) also applied to casual waterside workers.	
	<i>S.A.</i> (1957) applied in very limited form to state and federal award workers. <i>C'wealth.</i> (1961) applied to waterside workers, tied to anti-strike provisos.
3. THREE WEEKS ANNUAL LEAVE: N.S.W. (1958) applied by legislative direction to all workers under state awards. <i>Tas.</i> (1961) amended Act to empower Chairman of wages boards to award, which he subsequently (1962) did.	
	No action.
* The references to the actions of industrial tribunals are not to be taken as necessarily implying a causal link between the political colour of governments and the tribunals' decisions—though such a link is quite evident in the Tasmanian case at least.	
** In <i>Qld.</i> and <i>W.A.</i> the number of government, as of private, employees covered by federal awards is very small.	

rejected such claims. At the same time they have given, in this respect, a measure of satisfaction beyond that which most union leaders feel they can expect from non-Labour governments. This is so not only in the case of the general and direct industrial benefits cited above. It is also true of rather less central matters such as workers' compensation, apprenticeship and general factory and shop regulation, which usually generate less political heat but still occupy a high place in the scale of union claims. However, the record on the more sensitive issues is particularly significant because it is when these issues are at stake that the conditions indicating a preferential relationship are most consistently and clearly satisfied. In other words, they are not only the issues on which union feeling tends to run highest; they are also the industrial issues on which a Labour government is subject to the strongest countervailing pressures. Accordingly, the unions' influence on government policy is the more rigorously tested in such cases since they must secure concessions in the face of these opposing pressures.¹⁸

VI

The contrast between the industrial legislation of Queensland and South Australia alone is hardly surprising, given that the governing party's supporting interests were different in each case. In each of these states up to 1956, the dominant party had held office continuously for well over twenty years; and owing to the existence of electoral boundaries and voting systems favourable to it, each party could regard itself as firmly entrenched—saving a split in its ranks, as eventually occurred in Queensland. The Queensland Labour government and the South Australian non-Labour government were thus in a distinctive position in 1956, for even in New South Wales and Tasmania, where Labour had retained office for fifteen years or more, the electoral mechanism was not so blatantly favourable to it. This element of electoral security almost certainly had some bearing on the contrast between the Queensland and South Australian industrial legislation, assuming that it diminished the force of pressures working against the satisfaction of the unions' industrial claims in Queensland (so far as these pressures came from outside the Labour movement), and, by the same token, increased the force of the same pressures in South Australia.

Electoral considerations, however, have not set absolute limits to the responsiveness of Labour governments confronted with union industrial claims. For example, the "characterless and dispiriting respectability"¹⁹ developed by the Victorian parliamentary Labour party, over a half-century out of power, produced a 1955 election policy that was not greatly different from that of its opponents. Nevertheless, only the Labour platform included specifically industrial planks, in the form of proposals relating to long-service leave, equal

pay for women, workers' compensation and factory regulation.²⁰ Much more significant, however, was the same party's record during the term of its first majority government in the history of Victoria. In the parliament preceding the 1955 elections, the Cain Labour government passed the first long-service leave measure to cover workers under federal as well as state awards. It was also the first Labour government that compelled state industrial tribunals to continue quarterly cost-of-living adjustments to the basic wage, after the federal Arbitration Court (as it then was) had decided to abandon this system.

The Victorian example is illuminating. The Cain government was dependent on the votes of a splinter group, the Victorian Liberal party, in the upper house, and its majority in the lower house was not unduly large. Nor could it regard itself as electorally entrenched in office as could the Queensland and South Australian governments at the time. In the circumstances, the government might well be expected to have avoided, or at least to have proceeded more cautiously with legislation which, while pleasing the faithful, was equally likely to antagonize others whose votes the government needed. The principle involved in terms of electoral support has been enunciated in this way by E. E. Schattschneider:

To make extreme concessions to one interest at the expense of the others is likely to prove fatal to the alignment of interests that make up the constituency of a major party. The process moderates the course of party action . . .²¹

The extent to which the leaders of state Labour governments have defied this principle in the field of industrial policy may owe something to a fraternal sympathy born of shared ideals and long association with trade unionists. However, this is a matter of speculation only. More readily observable, and also in some degree controllable by the unions themselves, are externally-imposed compulsions which (like Schattschneider's principle) ultimately derive their force from the politician's instinct for survival rather than his sense of mateship. These arise from the structure of the Australian Labour Party.

In Australia, as in the United States to which Schattschneider's remarks were primarily directed, manual workers' unions constitute only some of many interests in the electorate at large, and, despite their mass membership and the fabled solidarity of their members, by no means exercise a dominating influence in that context. But the power of Australian trade unions in party-politics is less a matter of their numerical strength, or of their ability to marshal the vote of their members at election-time, than of their position within the framework of one of the major parties. Whatever may be the significance of the unions within the wider electorate, the structure of the Australian Labour Party means that the leaders of the unions can

constitute the dominant group within the party outside parliament. They are thus at least potentially capable of determining the fate of Labour's political leaders in a way that has nothing to do with the electoral support the A.L.P. has among unionists, or, for that matter, with the A.L.P.'s support among electors in general.

But, of course, it also follows that this potential situation is in fact realizable only when, and to the extent that, the unions are agreed on the way in which and the purposes for which the power inherent in their formal position within the party should be used. It is for this reason that one must look beyond formal party structure to specific issues for the occasions when it can be said that *the* trade unions, rather than *some* trade unions, dominate A.L.P. decisions. And the specific issues on which the unions tend to act most consistently as a group involve matters which go to the heart of the interests of all trade unionists, the bread-and-butter matters on which unions are built and around which their activities revolve. More than this, it is on such matters, when the immediate industrial interests of unionists in general are at stake, that the unions' intensity of support is consistently high and they are therefore prepared to assert most firmly the intra-party power which their unanimity confers on them as a group. In short, issues of this kind most consistently evoke not only the greatest measure of agreement and the most intense support among the unions, but also, in consequence, the strongest and most persistent union pressure on Labour governments.

At the same time, it is no part of the present argument that Australian Labour governments (or non-Labour governments for that matter) are, or have been, merely passive instruments of their party's supporting interests in policy matters. Even on the crucial industrial issues, the union-government link through the A.L.P. machine does not involve the union "control" of Labour governments which many union leaders claim should exist, and which their political opponents claim does exist. For one thing, as the history of the A.L.P. shows, the party machine does not possess the sort of sanctions which can be used to control rather than kill Labour governments. Rarely has a significant proportion of union leaders been prepared seriously to contemplate jeopardizing such gains (whether of a personal or policy nature) as they have made or can hope to make, through a Labour government, by using the party's formal sanctions in order to assert the claim that on a particular issue they should control rather than merely influence the government's actions. In other words, there is no ground for presuming a simple command-response relationship between the two, even in situations involving policy issues which evoke complete unanimity and the most intense support and persistent pressure on the part of the unions. It is true that, in these circumstances, Labour governments rarely reject a union claim out of hand. But it is equally rare for them to give immediate effect to such a

claim, and they usually stave off action by variations on the theme of "accepted in principle pending more favourable circumstances and /or further study".

On the other hand, the fact that union leaders lack controlling authority, owing to their known unreadiness to use the party's formal sanctions against Labour governments, does not mean that the parliamentary leaders can afford persistently to ignore union claims, particularly on general industrial issues, without eventual danger to their position. Dissident factions, inside as well as outside parliament, thrive on frustration within the party, and in the long-term more subtle sanctions than expulsion or withdrawal of endorsement may be available.²² Moreover, outside the party structure, strike action may sometimes seem a greater electoral liability to a Labour government than a policy concession. The leaders of Labour governments, in other words, may feel they can afford to delay granting the unions' major industrial claims and to press for compromise solutions, but it is apparent that they do not feel able to brush such claims aside with the equanimity of their non-Labour counterparts.

Thus the New South Wales Labour government might for a long time have resisted heavy (if, in some union quarters, tongue-in-the-cheek) pressure from the unions for repeal of the state anti-strike penalties, and it might eventually have brought down only a compromise amendment which fell very far short of the unions' claims. But in the same amending measure the government also gave unionists absolute preference in employment and provided for compulsory daylight training of apprentices. Moreover, during the preceding five years, despite delaying action on these issues as well, it had, among other things, restored cost-of-living adjustments within its jurisdiction, extended long-service leave benefits to workers under federal awards, and introduced three weeks annual leave and a scheme leading to equal pay for many women. Similarly, if the Tasmanian Labour government's policy on cost-of-living adjustments has been notably erratic, the government did at least do something to satisfy union claims on this score; and union leaders, while strongly critical, still find this kind of uncertainty preferable to the consistency displayed in the same matter by the non-Labour governments of Victoria and South Australia. From the unions' viewpoint, the deficiencies in a Labour government's performance cannot be divorced from its merits, and even apparent deficiencies can have meritorious aspects when the alternative is viewed.

The N.S.W. [Labour] Government has failed to introduce a 35-hour week, but nevertheless supports same in principle; the Liberal Party leader Mr. Askin came out in direct opposition to it. The N.S.W. Government has failed to eliminate the [anti-strike] penal clauses from the Arbitration Act, but did modify them; the Liberal Party leader is in favour of making them even more repressive.²³

o

And underlying, and in part flowing from, the judgments made on the basis of particular policies, there is the broad and clinching assumption:

. . . basically, Labour Governments will protect the industrial and social rights of workers whereas Liberal Governments will not hesitate to ignore [them] . . . On bread and butter issues, Labour's policy is far superior to the policies of the Liberal-Country Party forces.²⁴

This, of course, still leaves unexplained the variations in the performance of different Labour governments—for example, the assumption by New South Wales Labour, rather than electorally-entrenched Queensland Labour, of the pace-setting role in post-war industrial legislation; and the caution of Tasmanian Labour governments as against the comparative brashness of their relatively insecure Victorian counterpart of 1953-55. The electoral factor is clearly insufficient as an explanation, and other local factors must be taken into account. It is unnecessary to deal with the question in detail, since the central concern here is with policy differences between Labour and non-Labour governments rather than among Labour governments, but two relevant considerations may be mentioned.

In the first place, there is the obvious fact that Labour governments in Victoria, Western Australia and Tasmania, as earlier in South Australia, chronically suffer (or enjoy, on another interpretation) upper houses in which they lack a party majority. This has proved a serious obstacle in Western Australia, where the upper house persistently blocked bills on major industrial issues introduced by the Hawke Labour government of 1953-59, passing the long-service leave measure of 1958 only because its main terms had earlier been embodied in an agreement between employers and unions. The upper houses of Victoria and Tasmania, however, have been less intransigent. Thus, a split in one of the non-Labour parties gave the Victorian Labour government of 1953-55 a foothold in the upper house that it would otherwise have lacked; and the Tasmanian Labour government confronts an upper house which, despite the continued absence of a Labour majority, has proved much more tractable than the Western Australian.

In the second place, there is the character of trade unionism and of Labour's internal politics in the various states. The remarkable stability of the ruling group in the Queensland A.L.P. machine, up to 1955, is in marked contrast to the more fluid character of the New South Wales machine's internal politics, and appears to have given Queensland Labour governments a measure of insulation not enjoyed by their New South Wales counterparts. This (and also the fact that the insulation was by no means complete) is probably reflected in the way Queensland followed, instead of leading, New South Wales on the 40-hour week and long-service leave issues. Again, while the

comparatively weak response to the unions' industrial claims in Tasmania may be partly ascribable to parliamentary conditions, these conditions have clearly been less decisive there than in Western Australia. It is, perhaps, of at least equal importance that Tasmanian trade unionism, with the exception of one or two pockets, is relatively quiescent industrially, and that the trade unions, as a group, appear to occupy a much less significant position in the structure of the Tasmanian Labour party than is the case in the other states.²⁵

VII

The kind of government policies discussed above are among those which Davis seems to have in mind when he talks of "platform show-pieces"—the "few pieces of legislation which are characteristically moulded to suit the favourite clients of each party".²⁶ But those pieces that reflect the A.L.P.-trade union relationship are of more significance than this disparaging term, "show-piece", allows. Granted that there is no evidence of dominating preferential relationships (in Davis's sense) between Australian governments and their supporting interests, the "show-pieces" of state Labour governments at least point to consistent differences between Labour and non-Labour state governments which are more than matters of party label and personnel, or even of emphasis. They point to distinct policy differences between *all* state governments on each side.

It is to be emphasised that these differences are conceived in terms of the formal *initiation* of policies, and not their subsequent continuation in force. In these terms, for example, the Queensland Country-Liberal party government in 1962 was not to be identified with the legislative provision for a 40-hour working week which the government had inherited from a Labour predecessor. It may be argued against this approach that formal initiation of policy is too narrow a criterion, and that the Queensland government, simply because of its failure to repeal the provision, is properly regarded as having tacitly adopted the 40-hour policy. In this sense, of course, governments of all colours are continually "adopting" policies initiated by alien predecessors. But before it can be concluded that such "adoption" denies the policy differences (asserted above) between Labour and non-Labour state governments, it is necessary to make a questionable assumption. The assumption is that a positive act of adoption, involving the legislative initiation of a proposal, is politically no different in character from a subsequent passive "adoption" of the same policy, which takes the form of a failure to change or rescind the policy. More specifically in the present context, this involves assuming that there is no significant change in the political environment between the time an industrial policy is initiated by a Labour government and the time during which a succeeding non-Labour

government “adopts” the same policy by default. This assumption is rarely justified in the case of major industrial policies.

Non-Labour parties, along with their supporting interests, have almost invariably opposed strongly a Labour government’s initiation of major industrial policies at the time of such initiation. However, when they subsequently achieve government office, time has usually drained much of the heat and controversy from the issue. Not only does it happen that over a period non-Labour supporting interests become adjusted to living with policies which they found exceedingly uncomfortable at first, but the policies become entrenched in the community’s pattern of expectations to the extent that their withdrawal is likely to have industrial and electoral repercussions desired by neither a non-Labour government nor its supporting interests. Such entrenchment is fostered by the introduction of similar policies in other state jurisdictions (as in the case of long-service leave), and a highly influential role in this respect is played also by the federal Arbitration Commission when it applies particular policies in relation to employees covered by federal awards (as in the case of the 40-hour week and two weeks annual leave). Moreover, the effective reversal of major industrial policies initiated by Labour governments often requires not merely legislative repeal but also legislative direction to an arbitration tribunal, say, to provide in its awards for a 44-hour instead of a 40-hour week; and non-Labour state governments since the war have been characteristically loth to interfere with the discretionary powers of their industrial tribunals in this way.²⁷

Thus the circumstances in which non-Labour governments tacitly “adopt” a major industrial policy are usually quite different from those obtaining at the time of the policy’s initiation by a Labour government, and they are different largely as a result of that initiation. By the same token, the circumstances are such that tacit “adoption” cannot be regarded as reflecting a preferential relationship between the trade unions and the non-Labour government concerned, since the conditions signifying such a relationship (as defined previously) are no longer satisfied. It follows that there is no justification for treating simple failure to repeal a major industrial policy as a policy act identical in character with the prior initiation of that policy. The distinction drawn here between the policies of Labour and of non-Labour state governments is challengeable only in terms of the initiation of major industrial policies.

Even in these terms, there is in fact one apparent exception to the rule—the South Australian non-Labour government’s enactment of long-service leave legislation in 1957. There are, however, certain peculiarities about this exception. In the first place, it is quite clear that the Playford government’s hand on the issue was forced by electoral considerations which had little or nothing to do with pressure from the unions as such.²⁸ In the second place, the terms

of the resultant measure are much more grudging to employees than those of its counterparts introduced earlier by Labour governments in all the other eastern states.²⁹ There is thus little ground for interpreting this legislation as providing evidence of a preferential relationship between the unions and the Playford government. The South Australian case in one sense constitutes a genuine exception to the general policy distinction drawn above, but the features referred to place it in a quite different category from the comparable actions of Labour governments.³⁰

VIII

The policy differences postulated here between Labour and non-Labour governments occur in a field which may appear narrow to the observer. This does not mean, however, that they are justifiably dismissed as politically unimportant. Australian parties, A. F. Davies has written,

display their characteristic differences mainly in a readiness to indulge at the margin certain pressures in preference to others—namely, those that are in their own train. We should note, however, that the main pressures are permanent and apply irrespective of party, so that it is only marginally that, say, unions gain from Labour governments. . . .³¹

The question is, marginal to whom? Their major industrial claims are clearly not marginal to the trade unions, if the unions are properly regarded as being economic interest groups before they are ideological vehicles. Moreover, it is because such claims evoke united opposition from employer groups, as well as solidarity of support from the unions, that (as is argued above) they constitute the subject-matter of policies in which a distinct preferential relationship is discernible between unions and Labour governments. If both unions and employers in fact looked on such things as cost-of-living adjustments and long-service leave as being of marginal importance, Labour and non-Labour governments might also be expected to regard them as marginal and to diverge less markedly in their performance on these issues.

The industrial policies of state Labour governments have directly affected matters which go to the heart of the trade unions' concerns. One consequence of this is that the interests of Australian unions are more intimately involved in government policy than are those of their British and American counterparts. The latter are equally concerned with the broad lines of government policy which help to shape the environment in which they operate; but when it comes to their bread-and-butter claims, they look, generally speaking, elsewhere than to government.³² Australian unions are thus more closely and continually concerned with government action,³³ and it is government action relating to their immediate industrial aims that

forms the focus of the unions' concern with politics—to the extent, at least, that this concern is a concern with policy.³⁴

Once this has been said, however, it is to be emphasised that the government action which most closely touches the unions' central interests is action taken by *state* governments, since it is the state governments alone that possess the constitutional power directly to determine general conditions of employment. Even had Labour retained federal office throughout the last decade, the unions could have gained little more than in fact they did on such issues as long-service leave, cost-of-living adjustments and three weeks annual leave. For while P. H. Partridge in 1951 might justifiably include "the regulation of industrial conditions" among the main fields in which "the Commonwealth Government has achieved the major control",³⁵ the notion of "control" here must be heavily qualified. In political terms, it is in fact a most attenuated form of control because it must, for the most part, be exercised through a virtually independent agency, the federal Arbitration Commission. Under the terms of the Australian Constitution, federal governments determine the nature and scope of the Arbitration Commission's powers, but in general they cannot determine the use it makes of those powers.³⁶ Such direct control as they have in this respect is therefore of a negative kind, in that they can only prevent the Commission from dealing with certain matters by withholding or withdrawing the power to do so.

It is thus at the federal level, so far as Labour governments and the unions' immediate industrial aims are concerned, that there is some truth in Davies' argument about the marginal nature of the gains that can be made by a party's supporting interests—though the primary reasons for this are not political, as his argument postulates, but constitutional. The fact that federal governments are relatively powerless in such a vital policy area enhances the political significance of the distinction between the industrial policies of Labour and non-Labour state governments since 1945.³⁷

IX

Recognition of the inadequacies of the wholesale "initiative-resistance" interpretation of Australian party-politics³⁸ has in recent years led to an equally extreme reaction. It has become the fashion to emphasise party similarities as the over-riding feature in the field of policy. Such policy differences as are admitted are regarded as insignificant in the long-term, and the influence of supporting interests on applied party policy is dismissed as marginal. This interpretation, and the extent of the reaction it supports, owe a great deal to two shortcomings in the way in which the topic is usually approached.

First, there is the persistent tendency to look at parties' electioneering policies, instead of at the policies they adopt when in office. It is, admittedly, a much simpler task to examine the policy points displayed

in the parties' shop windows at election time; but simplicity is achieved only at the cost of limiting discussion to party promises, as distinct from party performance. Even if it were certain that the record of kept promises is "remarkably good"³⁹ in the state as well as in the federal sphere, election platforms usually give lamentably incomplete accounts of the policies actually initiated during a party's subsequent term of office.⁴⁰ Unless one is daring enough to assume, *a priori*, that party leaders include all their significant policy points in election speeches, it is plainly inadequate to discuss party policies (except as election policies *simpliciter*) solely, or even mainly, in terms of such speeches.

Secondly, there is the equally persistent tendency to discuss party policy in terms of the "great" issues that bulk largest in the eyes of the observer, instead of those that are major issues to the participants. For the main supporting interests of Australian parties are organized primarily "on individual items and not on great and glowing general principles",⁴¹ and it is individual items that are the constant subject-matter of government policy-making.⁴² Not that these individual items, and their importance to the parties' supporting interests, are invariably or altogether overlooked in arguments concluding with sweeping assertions about the uniformity of party policy. But they are usually regarded as substantiating the uniformity claim by indicating how paltry are such policy differences as do exist. Detailed consideration is reserved for the "great" issues. The point is that these are the issues on which the major Australian parties *can* agree in principle because the focus of their attention is elsewhere.

27 | AUSTRALIAN TRADE UNIONS AND POLITICAL ACTION

R. M. Martin

Sidney and Beatrice Webb, in their *Industrial Democracy*, analysed the way in which 19th century British trade unions enforced their "Regulations", or industrial policy aims, in terms of three "Methods". One of these they called the "Method of Legal Enactment", which meant the conversion of union policy aims into legally-enforceable rules. For the Webbs, legal enactment took a single form, parliamentary legislation; and it involved a single type of action on the part of the unions, representations to parliamentarians and governments irrespective of party affiliation.¹ This characterisation was adequate in Britain at the time *Industrial Democracy* was first published, but is no longer so. Still less is it appropriate in Australia.²

In the first place, the form now taken by legal enactment in Australia includes not only parliamentary legislation proper, but also legally-enforceable awards made independently by statutory industrial arbitration tribunals. Largely because of the extensive coverage of arbitration awards, which directly affect the vast majority of employees, legal enactment is of far greater concern to Australian than to British trade unions. There is, however, a similar difference of emphasis even in the case of parliamentary legislation alone, partly because direct parliamentary determination of industrial issues is more frequent in Australia, and partly because the powers of arbitration tribunals are governed by statute.

In the second place, legal enactment now involves more than a single type of union action. On the one hand, there is what may be called litigious action, meaning the use of procedures leading to the making of an award by an arbitration tribunal. Litigious action is "non-political" in the sense that it entails the aim of influencing the permanent members of arbitration tribunals whose proceedings are judicial in character. It is, however, the political heads of government who must ultimately be influenced when legal enactment takes other forms.³ The term "political action" is commonly used in this connec-

tion, but has the shortcoming that it fails to discriminate between two distinct types of action, both of which are political in character.

One type of political action includes the kind of procedures that the Webbs thought exclusively appropriate to legal enactment; it may be called *direct* political action, and in modern conditions characteristically takes the form of trade union leaders dealing with government officials and ministers without the use of intermediaries. The other type of political action is *party*-political action, which involves trade unions channelling policy claims through the extra-parliamentary organization of a political party in which those unions are formally incorporated.⁴

Since most Australian trade unions are affiliated to the Australian Labour Party, they have access to both these types of political action, but the relative usefulness of each as a means of securing legislative endorsement of union policies is chiefly a function of the relevant government's political colour. Party-political action is of greatest value to the unions when a Labour government is in office. On the other hand, when Labour is in opposition, union claims presented through the party machine tend to become parliamentary debating points rather than serious contenders for recognition by a non-Labour government. Direct political action often gives greater promise of success in these circumstances, a non-Labour government being likely to consider claims advanced in private discussions or correspondence rather more seriously than those hurled across the floor of parliament. At the same time, the value to the unions of direct political action also usually varies as between Labour and non-Labour governments, because in their direct dealings with a Labour government (as distinct from approaches to it through the party machine) their close association with the Labour party adds a weight to their claims that tends to give them an initial advantage over the claims presented in the same way by other interest groups.

The two types of political action may be distinguished, therefore, not only in terms of the procedures each involve, but also by reference to their relative importance in the relationship between the unions and different governments. In the case of Australian Labour governments, party-political action plays the dominant role; it imparts a special quality to the unions' total relations with such governments, even though those relations are conducted partly by way of the procedures of direct political action. In the case of the unions' dealings with non-Labour governments, on the other hand, the emphasis falls on direct political action, since in general party-political action is virtually inoperative as a means of securing government acceptance of union policy aims. It is thus possible, and also convenient for the purpose of this paper, to identify each type of political action with a particular type of government—party-political action with Labour

governments, and direct political action with non-Labour governments.

Australian trade unions now use both types of political action as a matter of course. This, however, is a comparatively recent development, the distinctive feature of which has been the unions' readiness and ability, since the second world war, to take direct political action in relation to non-Labour governments. Their readiness to act in this way represents a quite marked change from the pre-war attitudes of the general run of trade union leaders; and their ability to do so results primarily from a corresponding change in attitudes on the part of non-Labour governments, together with certain organizational developments on both sides.

TRADE UNION ATTITUDES

In Australia, as in Britain, direct political action on the part of trade unions is almost as old as trade unionism itself,⁵ and Australian union leaders generally regarded their early efforts to secure parliamentary representation primarily as a means of reinforcing their pressure-group activities.⁶ But the shortcomings of direct political action, as well as those of strike action, were laid bare in the events of the last decade of the 19th century which played a major part in producing a distinct Labour party in Australia.⁷ The result was that, particularly in the Labour party's formative years around the turn of the century, union leaders were inclined to rely almost exclusively on party-political action for the advancement of their aim.⁸ It seemed that there was little or no point in their seeking from non-Labour governments any co-operation beyond what they could obtain through the balance-of-power tactics of Labour parliamentarians.

This exclusive emphasis on party-political action was modified once improving economic conditions enabled unionists to believe again in the effectiveness of the strike weapon, for which, in some union quarters, the imported doctrines of the Industrial Workers of the World provided an ideological justification. But inflated hopes of success by this means were punctured in 1917 when the New South Wales railways strike and its supporting stoppages were broken. About the same time, moreover, the repercussions of the dispute within the Labour party over the federal government's conscription referendum of 1916 confirmed early union doubts about party-political action, doubts which had been fostered by the enlarged influence of the politicians and the declining voice of the unions in Labour's political machine, and above all by the failure of majority Labour governments to live up to their supporters' high expectations on policy matters. This did not mean, however, that after 1916 the unions abandoned party-political action (or the strike, for that

matter). Action through the Labour machine in fact gave them significant policy gains during the 'twenties, particularly in New South Wales and Queensland. Nevertheless, in the following decade the political and economic environment changed in a way that virtually nullified the usefulness of party-political action, as well as direct industrial action.

The 1934 Congress of the Australian Council of Trade Unions might have been emboldened to adopt (though only by an ineffectual 53-51 majority) a proposal for "mobilising the whole forces of Labour for a General Strike", and might urge "the whole wage and salary-earning class" to vote Labour's political candidates into power.⁹ There was, however, little immediate comfort to be had in either of these directions. The economic depression had broken the reed of strike action for all but a minority of unionists wedded to it on doctrinaire grounds, and the policies of arbitration tribunals held out little hope of relief. Non-Labour governments were in power everywhere except in three of the smaller states, and the value of even Labour governments seemed questionable in the light of the origins and consequences of the "Premiers' Plan" of 1931.¹⁰ In the circumstances it does not now seem surprising that once the 1934 Congress had looked doubtfully to the strike and done its duty by the Labour party, the A.C.T.U. secretary should then have commented: "It [is] necessary to take some action and influence [can] be brought to bear on Members of Parliament, both Labour and anti-Labour".¹¹ But the very fact that the secretary found it necessary to raise the matter at all in this form is revealing, as also is his emphasis on individual parliamentarians. Nowadays, the *principle* of attempting to influence non-Labour governments is discussed by neither A.C.T.U. Congresses nor their counterparts at the state level; and trade union leaders expect to deal with cabinet ministers, not with backbenchers. The A.C.T.U. secretary's diffidence on these two points was a result of the fact that in trade union circles in 1934 direct political action was not an established method of dealing with non-Labour governments.

In both the state and federal spheres during the 1920's and earlier, it appears that such direct dealings as the unions had with non-Labour governments were for the most part comparatively infrequent, and were usually highly formal in character, being conducted more by way of letter than by face-to-face consultation. This meant that trade union and government leaders seldom *discussed* issues, the only really notable exceptions being serious industrial disputes. Even limited attempts at consultation were regarded with suspicion in many union quarters, as illustrated by a characteristic reaction to a proposal that the A.C.T.U. should take up a matter directly with the Bruce-Page government: "there is no reason why such matters cannot be dealt with by our Parliamentary Federal members".¹² This kind of attitude not only seems to have been much more influential among

Australian than among British union leaders, from the time the respective Labour parties were founded, but its influence also persisted much longer in Australia.¹³

However, during the depression years of the 'thirties it became increasingly difficult for the unions simply to ignore non-Labour governments, and it was plain they could gain little by demanding concessions without discussion. Moreover, union leaders displayed a growing awareness that even if there was little prospect of their influencing the major policy decisions of a non-Labour government, they might have more hope of at least securing a voice in the way its policies were administered. The onset of war and the extension of federal control over economic and industrial affairs gave added weight to the view that the attempt to gain such a voice should be made, and the British initiative in union-government consultation provided an example. In 1941 the A.C.T.U. secretary impressed on the Menzies government the unions' claim for a share in the war administration.¹⁴

Opposition to the idea that the unions should seek consultative relations with a non-Labour government had been weakened by the breakdown during the 'thirties in the methods of action on which the unions had formerly relied; and while wartime conditions restored the strike to the unions, it also raised political (and in some cases, perhaps, emotional) considerations which militated against their using this weapon to the hilt, particularly after the German attack on the Soviet Union. At the same time, an outright refusal to deal with the non-Labour federal governments of the early war period would not only have been probably damaging to Labour's political hopes, but, in view of government's far-reaching intervention in industry, it would also have entailed renunciation of the unions' traditional claim to a voice in decisions directly affecting the working-lives of their members. In the event, however, the experiences of depression and war helped produce a more lasting change in union attitudes towards consultation than the nature of these considerations might suggest.

In the words of the president of the A.C.T.U., the trade union movement today "reserves the right to negotiate with all governments". It has in the main held to this policy throughout the period since the war when economic conditions have maintained its industrial strength at a generally higher level than ever before in peacetime. Most union leaders now accept that the problems confronting them require that they should be free to deal equally, if on different terms, with Labour and non-Labour governments alike.

On the other hand, this does not mean that all union leaders are agreed on the procedures for dealing with non-Labour governments, or even that during the years since the war they have always been unanimous on the need for such dealings. There have been strong

differences of opinion on both counts. The desirability of consultation with the Menzies Liberal-Country Party government, after its election in 1949, was by no means taken for granted, despite the prominence of those officials who showed immediate realism in facing the implications of Labour's defeat. In 1950 the A.C.T.U.'s Interstate Executive overruled the recommendation of its leading officials that it should be represented at an industrial conference suggested by the Menzies government. As one opponent of participation said at the time, "it is our duty to work for the defeat of the Menzies-Fadden Government, and the Trade Union Movement should not in any way co-operate with such a Government".¹⁵ A few months later a strongly left-wing trades and labour council carried a resolution recalling the attitude prevalent in the 'twenties: "We declare that the A.C.T.U. should not confer with the Menzies Government, but on the contrary, should demand that the Menzies Government take immediate steps to reduce and peg prices."¹⁶

This view seems at first to have obtained fairly wide support in union circles. Its hottest advocates were mainly militant left-wing and Communist officials, together with others who (while perhaps less militant industrially) were intimately involved in political affairs and felt that the unions should not by-pass the Labour party. Other officials, not strongly committed in either of these ways, initially found the anti-consultation posture comfortable enough because the union movement was still strong industrially; and their self-confidence was probably reinforced by an over-optimistic belief in the early return of a federal Labour government. But clear indications that industrial strength was not enough, and the failure of the Labour government to materialise, caused uncommitted officials to waver on the point. At the same time, the ranks of those opposing consultation on principle were depleted by the union election successes of the right-wing Industrial Groups, which on the one hand reduced Communist strength in the unions, and on the other hand threw up new union leaders who, despite their close ties with the Labour party, had few qualms about dealing with non-Labour governments.¹⁷

The A.C.T.U.'s decision to take part in the permanent Ministry of Labour Advisory Council, set up in 1954 by the Menzies government, was in marked contrast to its rejection of the same government's invitation merely to attend an industrial conference in 1950. Even since 1954, and the decline of Industrial Group influence in the unions, there has been no noticeable swing against the policy of negotiating directly with non-Labour governments. Such disagreement as there has been among union leaders has been about the forms rather than the principle of consultation. It centred mainly on the question of the propriety of A.C.T.U. representation on the Ministry of Labour Advisory Council, and has died down since that

issue was settled in 1958 by the withdrawal of the A.C.T.U.'s nominees. The Ministry of Labour Advisory Council, however, was a special case;¹⁸ and with this one exception, the pattern of formal consultative bodies established under the Menzies government has not come under serious attack from within the trade union movement. There has as well been little controversy over the principle of union representation on administrative bodies, as distinct from purely advisory ones, and none over the principle of *ad hoc* consultation.

GOVERNMENT ATTITUDES

In Australia, as in Britain, wartime conditions have produced the most dramatic changes in the attitude of non-Labour governments towards the trade unions. In its period of office during the first world war, the Australian National government on a number of occasions went out of its way to consult union representatives, but the practice was not continued as a matter of general peace-time policy by subsequent non-Labour federal governments. This was partly a reflection of the unions' industrial weakness during much of the inter-war period, and of their own reluctance to have much to do with non-Labour governments; but it is also evident that the members of such governments preferred to keep their distance from organizations that were as intimately connected with the Labour party as were the unions. It was a time, as union officials recall, of which a senior member of a non-Labour state government could boast that, in more than eight years of office, the number of his official meetings with union leaders could be counted on the fingers of one hand. The great change in government attitudes came with the second world war.

The federal administration up to October, 1941, was in the hands of non-Labour parties. Their leaders were quick to seek cooperation from the unions once the threat of war became serious enough to presage a situation in which the unions would again be a force to be reckoned with. During 1938 and the pre-war months of 1939, the federal government tried to set up an official trade union committee to advise on manpower problems, but failed to overcome union suspicion of its motives. After the outbreak of war, however, it eventually managed to form a trade union advisory panel with wider functions in 1940. The panel included representatives of a number of important union organizations, but excluded others such as the A.C.T.U. At the same time, there was a great deal of contact between the government and unions outside, as well as inside, the panel. The government initiated *ad hoc* discussions on a number of issues including, notably, its proposed modifications of the federal arbitration system and the question of "dilution" agreements covering skilled labour in the metal trades. It also appointed unionists in an

advisory capacity to government bodies concerned with such things as manpower, munitions production, shipbuilding and price control.

The non-Labour federal governments of the immediate pre-war and early war period thus sought, and finally secured, consultation with the unions on a scale greater than ever before. The later developments in consultation that occurred under the Curtin Labour government were less a new departure than extensions of a policy already established by its non-Labour predecessors. Moreover, in contrast with what happened after the first world war, both federal and state non-Labour governments have continued to follow this policy since 1945, if to a varying extent and on a scale more in keeping with the less pressing demands of peace.

During the 1950's there were trade union representatives on a wide range of advisory and administrative bodies functioning under, and in a number of cases established by, federal or state non-Labour governments. The trend towards formalizing consultative procedures in this way has been most pronounced at the federal level under the Menzies government, particularly in the case of advisory bodies, though even at this level such formal arrangements have been used less extensively than in Britain. The closer union-government relationship reflected in the developing pattern of standing consultative bodies in post-war Australia has been evident also in the area of *ad hoc* consultation. The greater readiness of non-Labour ministers to participate in informal discussions with trade union leaders, and to authorise departmental officials to do the same, has resulted in such discussions becoming almost as normal and accepted an occurrence as they have long been in the case of Labour governments. Again, while this development has been marked in state politics it seems to have been most significant at the federal level.

The striking change in the attitude of non-Labour governments towards trade unions in general is mainly a consequence of the post-war industrial strength of Australian trade unionism combined, particularly at the federal level, with the expanding role of governments in economic and social affairs. It may be also, as K. F. Walker suggests, that the change has at least something to do with what he calls a "greater recognition of the union movement in its own right, as an integral part of community organization".¹⁹ This implies, however, that governments can afford the luxury of determining their attitude towards a major interest group (and one, moreover, which is already closely allied with their political opponents) by reference to its social purpose rather than its economic and political power. It is, perhaps, more realistic to attach greater weight to another speculation that does not depend on an assumption of this nature. There are grounds for suspecting that during the 1950's members of the Menzies federal government thought they glimpsed a chance of attracting away from the Labour party at least a section of its traditional electoral

support among trade unionists.²⁰ Thus, senior cabinet ministers over a long period publicly asserted that Australian trade unions had much to gain by adopting what the ministers interpreted as the uncommitted political stance of American unions.²¹ Consistent with this was the way in which government leaders frequently seemed to be displaying the Ministry of Labour Advisory Council as an illustration of the amicability of their relations with the trade union movement. The possibility that these tactics might influence unionists' votes, or at least their attitude towards formal affiliation with the Labour party, was enhanced by a number of post-1945 developments. Notable among these was the emergence of an organized and politically extreme right-wing in the unions, the related split in the Labour movement after 1954,²² and the unions' greater independence of the Labour party, when out of office, because of their comparatively new willingness and ability to deal directly with non-Labour governments instead of relying on Labour politicians. For union leaders who had no intention of deserting the Labour party, and were at the same time unprepared to subordinate their official actions to the requirements of that or any other party, the presence of these hopes in government circles would not have been without its advantages. It is to be emphasized, however, that this consideration, given that it was in fact operative, can be regarded as having played no more than a marginal role in producing a more conciliatory attitude towards the unions on the part of the federal government. The crucial factor seems rather to have been the post-war industrial strength of Australian trade unionism, which itself is in large measure a product of the general maintenance of economic buoyancy to which all Australian governments since the war have been committed. In these circumstances, no government can afford totally to ignore the trade unions, and least of all a federal government which, despite constitutional limitations, has come to be popularly regarded as bearing primary responsibility for economic and industrial conditions.

ORGANISATION

Effective union-government consultation is not only a matter of attitudes. Also important is the organisation of the parties to the consultative process. This question has been particularly significant at the federal level in Australia. During the first world war, consultation between federal governments and the trade union movement was seriously hampered by the absence of an effective national union centre corresponding to the metropolitan trades and labour council in each state. The creation of the Australian Council of Trade Unions in 1927 did not substantially alter this situation, and it was many years before the A.C.T.U. carried sufficient weight among trade

unions in general to enable it to act authoritatively on their behalf. Thus in 1940 the Menzies government tried to negotiate with the A.C.T.U. alone on the formation of a trade union advisory panel, but eventually found it could secure the cooperation of major unions only by dealing directly with them. The wartime Labour Prime Minister, John Curtin, who repeatedly refused to grant exclusive recognition to the A.C.T.U., was later to indicate both its lack of standing and the way this complicated consultation when he appealed for "some definite and authoritative machine" to speak for the unions as a whole.²³ There was at that time, in other words, no union centre in Australia capable of assuming the responsibilities which the Trades Union Congress shouldered in Britain. This did not mean that the A.C.T.U. was altogether ignored in wartime consultation; but it was time and again either by-passed or treated as merely one union organization among many, by both Labour and non-Labour administrations.

It was not until the 1950's that the A.C.T.U. convincingly established its ability to act as chief union spokesman,²⁴ and its enlarged inter-union authority since 1949 is reflected in the way the Menzies government recognised its claim to a major role in the consultative process. Thus, in contrast with similar wartime bodies, the union representatives appointed to the Ministry of Labour Advisory Council in 1954 were all A.C.T.U. nominees. The changed position of the A.C.T.U. was underlined in 1956 in an exchange of letters between A. E. Monk, A.C.T.U. president, and H. E. Holt, then Minister for Labour and National Service, on the subject of *ad hoc* consultation procedure. The minister indicated that he had written to all members of the government in the following terms:

It has been my practice . . . to refer . . . requests for deputations and representations of other than a minor character [from individual unions] to the A.C.T.U. indicating that I would consider any requests or views put to me from that source. . . . The A.C.T.U. is the only official organisation of its affiliated trade unions and can speak with more authority than anyone else for the trade union movement. . . . I have discussed Mr. Monk's letter with our colleagues of the Cabinet and it has been decided that as a matter of general practice, members of individual trade unions affiliated with the A.C.T.U. should be asked, whether making requests for deputations or forwarding written representations, to submit these to the Government through the A.C.T.U.²⁵

The application of this policy has played an important part in consolidating the A.C.T.U.'s leadership. At the same time, the importance of this factor should not be exaggerated, for the inter-union authority of the A.C.T.U. is now not only wider in scope and more substantial than that of the British Trades Union Congress, but it is also less heavily dependent on government recognition.²⁶

Just as the rise of the A.C.T.U. has facilitated consultation from the federal government's standpoint, a similar result was achieved for the unions by the formation of the federal Department of Labour and National Service in 1940. In the correspondence cited above, the A.C.T.U. president asserted that, for their part, the unions recognised that representations on economic and social issues were properly channelled through the minister and his department.

THE PRESENT SCOPE OF POLITICAL ACTION

It was suggested earlier that one probable, if comparatively minor, consideration behind the Menzies government's consultation policy during the 1950's was the possibility of favourably influencing unionist voters and even, perhaps, of inducing some unions to drift away from the Labour party. Whatever may have been the effect on individual unionists, and this is mainly a matter of speculation, it is at least clear that the striking changes in the trade unions' relations with non-Labour governments have not been responsible for any unions renouncing their links with the Labour party. Indeed, from the union viewpoint, the question today does not normally present itself in terms of mutually exclusive alternatives. It is not a matter of the unions *substituting* the methods of the independent pressure-group for their traditional role within the Labour party. It is instead the problem of how best to *combine* both forms of political action, without detracting from the usefulness of either. The A.C.T.U. leadership has thus seen no contradiction between maintaining extensive consultative relations with the Menzies government and participating in the Commonwealth Labour Advisory Committee alongside representatives of the Labour party organization and the federal parliamentary party—not to mention the A.C.T.U.'s open support of the party at election time.

However, while the unions have by no means abandoned party-political action, there has been a significant change since the war in their relationship with the Labour party, and a change which is not a function simply of the party's parliamentary reverses during this period. The principal symptom of this is a marked emphasis on the unions' independent role. Unionists' now traditional wariness of politicians as a breed has played some part in this, as has the influence still exerted in Labour party affairs by the massive Australian Workers' Union, which has never joined the A.C.T.U. and is continually brought into conflict with other unions by the breadth of its industrial interests. In addition, there was the dispute over the Labour party's backing of the right-wing Industrial Groups up to 1954, and the residue of suspicion left by this episode on the score of "political interference" in union affairs—not to mention the per-

sisting intra-party conflict since then, about both its policies and its leadership. None of these considerations should be minimised. All the same, the wariness they entail has been a persistent element in the union-party relationship for a long time. The new factor emerging in the post-war years is the greater variety of methods of action open to the unions; and in this, their willingness and ability to use direct political action are of central importance. It is only since the war that the unions have ceased to be virtually paralysed at the political level when the Labour party is out of office, these being the circumstances in which they formerly confined their attempts to influence government, for the most part, to action through the Labour opposition. This, added to the unions more consistent industrial strength and to Labour's sorry electoral record during the period, has meant that the union movement's dependence on party-political action was probably smaller during the 1950's than at any time since the foundation of the Labour party.

The unions' greater sense of independence of the political wing is reflected in and reinforced by the striking expansion in the A.C.T.U.'s authority over the decade. It is also evident at the state level: for example, in the campaign against the long-standing organizational fusion of the industrial and political wings in Western Australia,²⁷ and in the way most South Australian unions were ready to accept concessions from a seemingly entrenched non-Labour state government in the teeth of strenuous opposition from state Labour politicians loth to compromise issues from which political capital could be made.²⁸ More broadly, it is probably reflected, too, in the post-war trend of feeling among the unions (remarked on in conversation by both party and union leaders) against the practice of union officials standing for political office.

If, as suggested above, the Menzies government's consultation policy was marginally motivated by the possibility of drawing the unions away from the Labour party, then it is arguable that this end has been partially achieved to the extent that the unions, facing non-Labour governments, no longer find it necessary to depend almost entirely on Labour oppositions to fight their political battles. It is true that non-Labour Governments have conceded little in the way of major policy changes of a positive kind, the unions' positive gains being limited usually to matters of legislative and administrative detail. On the other hand, gains of a negative character involving the prevention, rather than the promotion, of government action are sometimes of greater importance.²⁹ In either case, while the pickings from direct political action are not normally spectacular, union leaders by no means consider them worthless.

At the most, however, the availability of this type of action has meant no more than a loosening of union-Labour party ties. The unions still work through the party machine when and where Labour

is in office, and most of their officials still take an active interest in party affairs. Their continuing allegiance to the Labour Party is probably, in large measure, a case of a tradition dying hard: and the once standard explanation in terms of a positive ideological identification, though more than ever of questionable importance, can still not be dismissed altogether. However, there are also more pragmatic reasons why the trade unions should find it at least convenient to maintain their affiliation with the party (apart altogether from the personal ambitions of trade union officials with an eye on a political career). On the one hand, it is not at all clear what the unions would stand to gain from severing the Labour party link: non-Labour governments are now prepared to deal with them despite it, and there is no assurance that its absence would enhance the unions' ability to influence such governments. On the other hand, the disadvantages of such a course are much clearer. Affiliation with the Labour Party has two great virtues from the union viewpoint. In the first place, when Labour is in office it gives the unions a means of access to government which is very rarely open to competing interest groups. In the second place, the pressure which the unions can bring to bear on a Labour government is ultimately dependent less on their variable industrial strength (which is of more central importance in the case of direct political action relating to non-Labour governments) than on sanctions available only within the structure of the Labour party. For control of these sanctions, by virtue of the party's constitution, is effectively vested in the unions to the extent that enough of them are prepared to act in unison.³⁰ To break with the Labour party would mean giving up, if only in a potential sense, both these advantages.³¹ In other words, if the unions chose to abandon party-political action they would also be choosing to abandon a favoured position in relation to *some* governments, and thus to place themselves on the same footing as most other interest groups in relation to *all* governments.

These considerations help explain why the bulk of Australian trade unions do not seriously contemplate breaking the connection with the Labour party; they fail to explain, however, why the unions still place a great deal of emphasis on this connection. D. W. Rawson has ably argued that the Australian, as compared with the British, trade union movement is characterized by a pronounced "radical" streak that is reflected in a stronger emphasis on party-political action and a tendency to blur the distinction between industrial and political activities.³² There is a good deal to be said for this thesis. But Rawson's further assumption that Australian trade unions *can* "move toward the position of their British counterparts, who have maintained a clearer division between industrial and political activities", must be read subject to a severe limitation. With or without a radically-inclined union movement, the kind of distinction between industrial and political activities that is still possible in Britain is now impossible

in Australia. It is impossible because the immediate industrial goals of Australian unions (not to mention their internal affairs and external actions) are so much more intimately involved in politics. They are, in fact, political issues. For, among other things, party-political action, whatever its frustrations, has outstandingly paid-off for the unions in the form of legislation improving unionists' working conditions.³³ In Britain, on the other hand, not only are such matters still regarded for the most part as being outside the scope of direct government determination, but the "union's hopes from [the Labour party] are less and less directly and immediately related to their industrial needs".³⁴

To Australian unionists, as to outsiders, many of the policies of Labour-in-office appear indistinguishable from those of its opponents. Nevertheless, the unions can still look forward to attaining through the Labour party machine and Labour governments immediate industrial goals that seem either unattainable or attainable only slowly and with difficulty through industrial action, or through litigious action, or by way of direct political action in relation to non-Labour governments. The greater attention paid by Australian trade union leaders to direct political action since the war seems to indicate that they have shifted some way towards the politically more detached position of their British counterparts. There is, however, little likelihood of their reaching that position so long as most of them hold their present expectations of party-political action.

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Keith O. Campbell

THE NATURE OF AUSTRALIAN FARM ORGANIZATIONS

(a) Commodity Orientation

Perhaps the predominant characteristic of Australian farm organizations is the fact that they are, in general, commodity-based rather than representative of farmers as a vocational group. In this they contrast markedly with the National Farmers' Union in Great Britain, the American Farm Bureau Federation in the United States and major farm organizations in other countries. With the exception of the Australian Primary Producers' Union, which is a comparative newcomer, and a few special cases like the non-political Agricultural Bureaux of New South Wales and South Australia, the interests of each of the major farm organizations are restricted to a closely related group of commodities. If wheat is under discussion, one thinks automatically of the Australian Wheat Growers' Federation in the federal sphere or the United Farmers and Woolgrowers' Association in New South Wales—and similarly with other commodities and other states.

Though they are primarily commodity-oriented, it is sometimes more pertinent to regard particular organizations as being representative of regions. The geographical distribution of different types of farms means that particular commodity organizations tend to be strong in particular areas.¹ Thus the Primary Producers' Union, the N.S.W. dairymen's association, has little competition in its claims for farmers' loyalty on the North Coast of that state and the United Farmers and Woolgrowers' Association may be regarded broadly as representing farmers in the N.S.W. wheat belt. To the extent that the organizations do represent particular type-of-farming areas, they do, on occasions, tend to interest themselves in, and to make represen-

tations about commodities grown in association with the commodity which is the principal focus of their attention. Thus the Primary Producers' Union has interested itself in potatoes and the N.S.W. Graziers' Association has a committee which formulates policy on wheat. The Australian Woolgrowers' and Graziers' Council on the national plane represents pastoral commodities in the broadest sense covering wool, sheepmeat and beef.

In some instances, a single organization does not have an unrivalled place as spokesman for a particular commodity. The wool industry is the classic example. Here regional or type-of-farming interests tend to loom larger than narrow commodity interests. The Australian Wool and Meat Producers' Federation, predominantly representative of the interests of sheep and wool producers on the mixed sheep-wheat properties characteristic of the Australian wheat belt, has clashed openly with the Australian Woolgrowers' and Graziers' Council in recent years on major matters of policy such as the merits of wool promotion and the necessity for reform in wool marketing procedures. Some would ascribe these factional splits to differences in the scale and economic structure of the farms represented by the two organizations concerned, but these characteristics reflect primarily differences in the type-of-farming areas from which the respective organizations' members are drawn.

It would be interesting to speculate why Australian farm organizations have developed predominantly as commodity organizations rather than as vocation-oriented institutions. Whatever the reasons, Australian agricultural policy has also developed on a commodity-basis so that rural pressure groups, governmental departmental structures and the emergent policies now tend mutually to reinforce retention of the existing set-up. Governments and government officials have well-established patterns of consultation with respect to particular commodity policies.

The Australian Primary Producers' Union, as a broadly structured vocational-type of farm organization, has experienced great difficulty in the two decades of its existence in gaining acceptance by both governments and other farm organizations as being worthy of a voice when particular commodity policy was being formulated. The delay in the establishment of the Victorian Wheat Research Committee because of disagreement about A.P.P.U. representation and the more recent endeavours of the Union to get representation on the newly-constituted Australian Meat Board and the Australian Wool Industry Conference might be cited as examples. The Union's ultimate success in the case of the Conference is perhaps a pointer for the future. At the same time, to achieve this goal it was forced to amend its constitution in such a way as to give its commodity sections greater autonomy and thus sacrifice something of its original unitary character.

(b) State Foundations

Because the division of constitutional power in 1901 left responsibility for agricultural matters with the states, it is not surprising that most of the farm organizations should have developed on a state basis, often quite independently and with different names. Indeed the origins of some of them such as the Graziers' Association of New South Wales antedate Federation.

Many of these state organizations in the earlier years of necessity directed their claims for agricultural reform almost exclusively to State Governments and more particularly to the State Departments of Agriculture. From the appearance of the first signs of Commonwealth Government interest in rural policy in the 1920's (which were prompted in part by the rural organizations themselves), the main focus of organizational pressures has moved more to the Federal level. The expansion of agricultural administration in Canberra after World War II through the medium of the Department of Commerce and Agriculture and subsequently the Departments of Trade and Primary Industry, and more particularly the growth of Federal Government subventions and assistance to the rural industries has naturally been reflected in the activities of the organizations. Even so, apart from the Australian Primary Producers' Union, the organizations have not found it advantageous as yet to shift their administrative offices to the nation's capital. Indeed the strength of most of the federal commodity groups still lies in the autonomous state organizations, the federal representations being conducted primarily through federations of state organizations. These federations also still operate from state capitals; the Australian Wheat Growers' Federation from Adelaide, the Australian Dairy Farmers' Federation from Brisbane, and the Australian Woolgrowers' and Graziers' Council and the Australian Wool and Meat Producers' Federation from Sydney. It can be said in essence that the structure of the Australian farm organizations mirrors the federal structure within which the nation operates.

(c) The Federations

In the case of some of the federations such as the Australian Dairy Farmers' Federation, the sources of state support are clearcut. The relevant state dairymen's organizations (e.g. the Primary Producers' Union of New South Wales) send representatives to the Federation. In another instance, the Australian Woolgrowers' and Graziers' Council, several regional organizations in the same state may have representatives on the federal body (e.g. the Graziers' Association of New South Wales, the Graziers' Association of Riverina and the Pastoralists' Association of West Darling). In still other cases, particular state organizations may be affiliates of two federal commodity

federations. For example, the United Farmers and Woolgrowers' Association in N.S.W. and the comparable organizations in other states are constituents of both the Australian Wheat Growers' Federation and the Australian Wool and Meat Producers' Federation.

As a form of organizational structure, the federation has strengths and weaknesses from a political standpoint, but on balance its liabilities would seem to outweigh its advantages. On the debit side is the difficulty of achieving a consensus when constituent bodies have to be consulted and the difficulty of getting such bodies to conform with federation decisions, if disagreements have been great. In extreme cases, the member association may break away from the federation and the federation thereby lose its quality of representativeness. The recent withdrawal of the Australian Woolgrowers' and Graziers' Council from the N.F.U. is an appropriate example.² On the positive side, constituent state organizations can sometimes bring seemingly independent pressure to bear at the state level particularly in cases where, as so often occurs in the Australian context, complementary federal and state legislation is necessary to achieve a particular commodity policy. The Farmers and Settlers' Association of N.S.W. (a forerunner of the United Farmers and Woolgrowers' Association) did this with considerable success when the wheat stabilization scheme was being formulated in the immediate post-war period.

Apart from the federally-oriented federations of commodity organizations two other forms of federation have made their appearance—both representing what might be called horizontal integration. The first is the state federation of diverse commodity groups of which the Primary Producers' Council of N.S.W. (recently renamed the N.S.W. Chamber of the National Farmers' Union) might be cited as an example. Like some of the federations described earlier the strength of these state federations has waxed and waned over the years depending on the personality of the secretary and nature of the common problems currently emerging. Given the predominantly commodity-oriented character of much of the governmental approach to agricultural policy at the state as well as at the federal level, these state federations have not operated in an environment conducive to their growth. They have on occasions lent aid to the weaker commodity groups and have attempted to come to grips with agriculture-wide problems such as drought. However it is significant that, at the present time, only three of these state federations survive, viz. those in New South Wales, South Australia and Tasmania.³

The other form of federation is represented by the National Farmers' Union of Australia—an organization which is essentially a federation of federal commodity federations. As such, it suffers from all the political disadvantages of federations in double measure. As compared with some of its constituent bodies, its secretariat is small and its political influence slight. The member associations have been

at pains to ensure that it does not trespass on their traditional territory. In 1955, the retiring President of the Union was prompted to record in his annual report:

I would like to correct a misconception held by certain people that the N.F.U. is likely to gradually usurp from existing commodity organizations the right to speak on problems directly related to their commodities. This illustrates a complete misunderstanding of the role of the N.F.U., which is to speak essentially on matters of common interest. Commodity organizations are fully protected by the constitution, which provides that if any motion comes before the N.F.U. which is domestic to the industry of a member organization, that organization can insist on the withdrawal of the motion from the N.F.U.'s consideration.⁴

One of the chief motivations for the existence of the National Farmers' Union in the post-war period has been to provide some basis for Australian representation in the International Federation of Agricultural Producers (IFAP). However, after 1954 support for such affiliation waned, few delegates attended IFAP conferences (the expenses of most of them were met by other bodies) and eventually Australian membership of the organization was severed in 1963. It has subsequently been restored, though it is fair to say Australian support for the IFAP is still not enthusiastic. The A.P.P.U. was admitted as an independent member of IFAP in December 1964.

As in so many cases, the nature of organization leadership at a particular point in time has been a determining factor in the organization's effectiveness. The executive of the N.F.U. meets at roughly quarterly intervals. Two conferences a year are held and at these significant issues of rural policy are discussed. The organization as such is a party at the conferences of representative business groups which the Prime Minister has called at regular intervals to discuss national economic policy, though representatives of the A.P.P.U., the Australian Woolgrowers' and Graziers' Council and the Australian Wool and Meat Producers' Federation also attend.

At times the Union has issued statements on rural policy which have attracted public attention such as the one issued at the time of initiation of the agricultural expansion programme in 1952. Sir John Crawford, the Secretary of the Department of Commerce and Agriculture at the time (i.e. three years after the N.F.U.'s formation) spoke approvingly and optimistically of the work that the N.F.U. was doing,⁵ but it would seem that it has grown little in strength or influence since that time. In such areas as national wage and tariff policy where the united voice of the rural interests needs to be heard, it is primarily the stronger constituent organizations and more particularly the Australian Woolgrowers' and Graziers' Council which in the past have borne the brunt of the burden, though their spokesmen have on occasions claimed to be putting forward N.F.U. policy.

Discussions have been held in recent years in an attempt to effect some kind of union between the National Farmers' Union and the Australian Primary Producers' Union. Though progress has been reported, the proposed Australian Farmers' Federation has not yet come to fruition. On the basis of their respective organizational structures it is difficult to see an effective basis of true union between the two associations. However, the Australian Farmers' Federation, which, to all intents and purposes, would represent the existing commodity federations making up the present N.F.U. together with the A.P.P.U., may provide the basis for a much needed general farm organization in the Australian scene, more concerned with problems confronting the rural industry as a whole and less preoccupied with commodity issues. At the same time, the possibility of the establishment of the Federation was one of the reasons motivating the A.W.G.C. to withdraw from the N.F.U.

It is sometimes argued that a general farm organization is something of a pipe-dream in the context of the Australian rural industries, given the diversity of commodity organizations already in existence and their jealous resistance to any incursions on what they take to be their historical preserves. Though traditions are hard to break, it must be recognized that in other countries, with rural industries perhaps more diverse than those of Australia, vocationally-based general farm organizations have operated successfully and effectively and particular commodity groups within such organizations have benefited from the collective support of the entire organization.

An effort to bridge the gulf between the commodity organizations and the A.P.P.U. and thus produce a more general farm organization is also evident in some of the states. In 1966 the South Australian Wheat and Wool Growers' Association merged with the South Australian Division of the A.P.P.U. to form an organization known as the United Farmers and Graziers of South Australia. Similar moves are afoot in Victoria. In N.S.W. there is little enthusiasm for such proposals, the Secretary of the United Farmers and Woolgrowers' Association in that state being recently motivated to reiterate the theme that general farm organizations should not encroach on the territory of the established commodity organizations.⁶

THE ROLE OF FARM ORGANIZATIONS

(a) Government-Industry Liaison

It is now generally acknowledged in most modern democratic societies that pressure groups have a legitimate role in the shaping of public policy and indeed some civil servants would regard them as an indispensable aid to smooth administration. As Westerway has put it:

Governments and pressure groups in societies like ours, societies with a high level of Governmental control, are in a relation of interdependence. The Governments need the groups for advice and information as well as to win consent of the governed. The groups need advance information and the chance to take the initiative in moulding the Governments' decisions.⁷

With the increased intervention of Governments in rural industries in recent decades, Australian farm organizations have been drawn more and more into the administrative process. For one thing, the producer representation on the Commonwealth commodity marketing boards is usually drawn from nominees of the relevant commodity organizations.⁸ Given the size of operations and the financial power of some of these Boards, e.g. the Wheat, Wool and Meat Boards, representatives on these boards are sometimes in a position to exert more pressure on narrow commodity questions than the industry organizations from which they are drawn.

Representatives of the farm organizations have been involved also in international negotiations in respect to the commodities in which they are interested. The intimacy of the relationship between the Government and the producer groups is colourfully revealed in the following quotation from a speech by Mr. McEwen:

. . . . What I did as Minister in charge of the negotiations was not merely to consult this body and every other organized body in Australia but actually to take to Brussels and to London with me representatives of the organized growers or producers. If they couldn't sit at the table they were in the room outside where I or my officials could nick out and have a word with them. This is a pretty good relationship between government and primary industry . . .⁹

Farm organizations have been drawn directly into other phases of agricultural administration. In the field of price support, for instance, the Australian Dairy Farmers' Federation has been represented on such bodies as the now defunct Dairy Industry Investigation Committee and the Secretary of the Australian Wheat Growers' Federation sits on the Wheat Index Committee that reviews the guaranteed price of wheat before it is announced each December. The commodity organizations are also represented on various committees responsible for the distribution of research levies on farmers, the farmer representation being stronger on the state than the federal committees where, in the case of wheat, both exist.

The close nexus between agricultural administrators and the appropriate commodity organizations cannot be adequately appreciated simply by reference to formal representation on committees, boards, and delegations. Much informal consultation takes place between ministers, civil servants and representatives of farm organizations when particular policy proposals are under discussion and it is not always the farm organization which initiates such discussions. What

is apparently disquietening to ministers and civil servants is the fact that sometimes there is more than one voice purporting to speak for an industry and some reconciliation of points of view becomes necessary. This is a matter to which I shall return later.

Though the development of a high degree of rapport between the administrator and the administered may be interpreted as a now customary concomitant of administration in a welfare state and especially in clientele departments like Agriculture or Primary Industry, there is reason to believe that the development of such close liaison in agricultural administration since the Liberal-Country Party coalition came to power in 1949 owes something to traditional Country Party philosophy. Except for a short period, the federal agricultural portfolio has been held continuously by a member of the Country Party. Obvious efforts were made in the early 'fifties to restore and develop channels of communication between industry groups and the Government, which had withered somewhat under the Labor Party's administration, and take more heed of the expressed wishes of farmers' representatives. There are several manifestations of the major tenet of the Country Party platform to which I refer, but its general implication is that those who are responsible for producing a particular primary product are the people most knowledgeable concerning it and should have the final voice in its disposition.¹⁰ A recent exposition of Country Party policy in this matter was given by the Leader of the Party, Mr. McEwen, in Parliament in November 1965, when he said:

My attitude is that neither the Australian Country Party or its parliamentary members should decide what is the correct policy for a primary industry. It has always been the policy of my Party that those who produce, own and sell a product are the best judges of the way in which their own property should be treated. It is the function of my Party to see that the will of those who produce and own the product is carried into legislative and administrative effect. . . .

What the Cabinet stands for is what my Party stands for—the affording to primary industry of the opportunity to decide what policy it wants in respect of the marketing and disposal of its own product. This is the policy which I have always stood for, which my Party stands for and which the Government of which I am a members stands for.¹¹

This principle is applied in particular to the operations of the marketing boards. Superficially there would appear to be very little wrong with this approach in the case of the boards, subject to some oversight where government-guaranteed finance is employed in the board's operations. However, even in such cases, it would appear on deeper reflection to be intolerable that any Government should abdicate its responsibilities to particular groups in the community when their decisions might add to Treasury commitments (say in respect of price guarantees) or run counter to or jeopardize other aspects

of the Government's policy, be it internal monetary and fiscal policy or external trade and foreign policy. The controversial question of the Wheat Board's sales to Mainland China might be cited in the latter regard.

However, this philosophy implying the right of particular primary industry groups to be especially listened to and heeded in the formulation of policy is not confined to marketing board operations. Particular farm commodity groups have developed positions of privilege *vis-a-vis* the Government comparable to the position enjoyed by the Returned Servicemen's League in respect of repatriation matters.¹²

To illustrate my point, let me quote a few examples. There have been occasions in the past when farm organizations have been better informed about emerging agricultural policy than the State Departments of Agriculture, even in cases where the latter departments have a vital interest in such policy. This has occurred despite a conscious attempt by the Department of Primary Industry to keep State Departments fully informed about domestic and overseas developments that are relevant to their administration.

In the federal sphere by tradition commodity policy proposals are thoroughly discussed with representative commodity groups before they go to Cabinet whereas the first the general public hears of these proposals is when the policy has largely been crystallized as a result of two-way negotiation and the Minister enunciates it in his second reading speech in the House of Representatives. Requests for information on the proposed policy before this time by non-members of the privileged group are met with polite refusal. The revision of the wheat stabilization scheme in 1963 followed such a pattern. Under this regime, the public is uninformed and ill-prepared to register any protests and there is no opportunity for informed and considered criticism by other affected parties. It is easy to see in these circumstances how the public interest may be sacrificed to the advantage of sectional interests, particularly in the matter of subsidies.

The position of privilege extends to other aspects of agricultural administration. Several reports of vital interest to ordinary citizens are accessible to and indeed have been widely disseminated among farmer organizations, but are confidential so far as the public at large is concerned. I might cite one instance.¹³ The appraisal of the procedures used in assessing the cost of producing wheat which Sir John Crawford prepared in 1956 at the Prime Minister's direction was distributed freely to wheatgrower organizations, but was not available to the public. This was not a matter which was exclusively of interest to wheatgrowers. The taxpayer is entitled to have access to an expert appraisal of the basis on which the price of wheat and subsidy payments are determined.

I would not deny the right of, and indeed necessity for the Government to consult with the directly-affected parties when administrative

policies touching on their interests are being formulated. But I also feel that the broader public interest should be protected. I would submit that this principle is in jeopardy when secrecy and special privilege of the kind I have described are tolerated and even encouraged. To say in defence that it is a firm tenet of the Country Party platform is irrelevant.

(b) Other Pressure Group Activities

Though the advice of Australian farm organizations on commodity problems is currently actively sought by administrators, the performance of the organizations on broader issues of public policy is most disappointing. In this regard a comparison of the resolutions of the annual conference of an Australian farm organization with those of one of the bigger overseas organizations like the American Farm Bureau Federation is very revealing. The annual resolutions of some Australian organizations still contain an assortment of items of a parochial nature equivalent to a resolution from Snake Gully branch calling for a better telephone service. The bigger, more influential organizations such as the Australian Woolgrowers' and Graziers' Council rise above their commodity interests to comment on broader issues of national economic policy such as wage and tariff policy. But they rarely, it seems to me, follow the pattern of their overseas counterparts and take the view that the Government should be informed what a significant economic group in the community thinks about such matters as monetary and fiscal policy, national development and international affairs, except in so far as the Government invites some of them in for consultation.

Reference has already been made to the yeoman service rendered to the Australian rural industries by the Australian Woolgrowers' and Graziers' Council in undertaking to represent the rural viewpoint in national wage and tariff negotiations. The A.P.P.U. in its initial years did aspire to participate also in such activities, but lost interest when its application for registration with the Arbitration Commission was refused. The graziers were thus left to carry on the fight with occasionally nominal support from other organizations.¹⁴ The significance of these activities from the farmers' standpoint may be gauged from an observation of one expert in industrial relations who has claimed that the dispute between employers and employees in the metal trades, which is the focus of the annual basic wage cases, is largely a sham dispute and that the real dispute is between Australian employers and employees on the one hand and the unsheltered primary industries on the other.¹⁵ Be that as it may, the Graziers' Associations have devoted much time and money to participation in national wage cases as well as to cases concerning awards affecting the pastoral industry directly.

In the case of that other extra-legislative institution bearing on Australian economic policy, the Tariff Board, the major representations on behalf of the primary industries over the years have been made by the Australian Woolgrowers' and Graziers' Council in cases where such representation has been relevant. Until 1960 the burden of this work was carried by the economist of the Council, who up to that date was also the tariff officer for the N.F.U. Since that date the A.W.G.C. and the N.F.U. have worked more independently, but both organizations are members of, and have worked in close collaboration with, the Australian Tariff Council (formerly the Joint Committee for Tariff Revision). Some direct influence may also be brought to bear by virtue of the fact that it is government policy to include some representatives of primary industry among the membership of the Tariff Board. However, one cannot help feeling that, apart from the A.W.G.C., Australian farm organizations, until recently at any rate, have lacked vigilance in safeguarding their interests in the matter of the protection of secondary industry.

The limited range of interest and activities of the Australian farm organizations as compared with their overseas counterparts is probably to be explained in part by their 'commodity-oriented bases, by restricted finances, the insularity of outlook of farmer members and, until the last decade at least, their employment of ill-equipped executive staff has also contributed to this situation. On the financial side, there is evidence of an attitude of parsimony towards any activity which does not promise direct benefits in the form of increased returns to the industry. The attitude of some organizations towards participation in the IFAP might be cited in this regard. Added to this is the fact that few Australian farm organizations have the benefit of sources of finance apart from membership subscriptions. Comparable organizations overseas often have big farm supply, insurance, or marketing co-operatives associated with them and this adds to their financial strength and stability. The United Farmers and Woolgrowers' Association is perhaps the best example of an Australian farm organization which has been able to draw some finance from an associated co-operative, the Farmers and Graziers Co-op. Co. Ltd. But, generally, the comparative weakness of farm co-operatives in this country is a political liability. The marketing boards are not an effective substitute in this connection.

The greater strength of the secretariats of the overseas farm organizations as compared with the Australian is plainly evident. Compare for instance the secretariat of the National Farmers' Union of Australia with that of its United Kingdom namesake or the American Farm Bureau Federation.¹⁶ It is true that in the past decade some of the Australian organizations have seen that to do an effective job they must have a well-staffed and well-trained secretariat and they have shown a willingness to pay the salaries

necessary to achieve this goal. Others are still trying to do, on a makeshift basis, a job which clearly requires the use of trained personnel.

The recent recruitment of a research officer for the Australian Wheat Growers' Federation, financed by the research levy rather than from membership subscriptions, is representative of an attitude which is hindering some Australian farm organizations from doing the task they could be doing to their advantage. It seems to me that research work necessary for a pressure group to do its particular job should be paid from members' subscriptions, not by tapping research funds intended to enhance the productivity of that industry. It is fantastic that an industry of the size and importance of the Australian wheat industry should attempt to conduct its pressure group activities through the employment solely of a part-time secretary, however competent that man may be. If an industry such as the wheat industry employed more trained staff, it could meet public criticism of its privileged position by reasoned argument instead of by personal abuse, the usual form of reply currently employed.

Farmers need to realize that it is historically inevitable that their industry should represent a declining sector in the economy and that this has organizational consequences. Despite last-ditch stands in the form of claims by the Country Party for the over-representation of rural electorates in the legislature, Australian farmers must accept the fact that in future they will have to rely on weight of argument rather than weight of numbers in achieving their economic and political goals.¹⁷ Strengthening the secretariats of farm organizations both financially and in some cases intellectually is a necessary first step. If farm organizations were better advised it is conceivable that we might see a more constructive adaptive attitude to change than has characterized the approach of farm organizations to some recent policy issues. There are grounds for believing that the conservative stance adopted by some organizations to closer settlement policy, to the reconstruction of dairy farms (as recommended by the Dairy Industry Committee of Enquiry) and to amendment of the wheat stabilization scheme, has often run counter to the industry's long-run interests.

(c) Relationships between Farm Organizations and Political Parties

It might be argued that many farmers seek to achieve their more general goals through partisan political activity rather than through the medium of their farm organizations. It is true that in Australia there is an agrarian party, the Country Party, and this situation may go some way towards promoting a dichotomy in farmers' political activities.

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Geoffrey Sawer has claimed that “the Country Party has an organic relationship with farmer organizations”.¹⁸ Though the sources of political and financial support for Australian political parties are shrouded in secrecy, I do not believe the ties between the political parties and the farm organizations are as close as Sawer’s statement implies if by “organic” he means formal ties. His statement may have been truer of earlier days (i.e. before 1945) when for example the N.S.W. Farmers and Settlers’ Association and the Graziers’ Association of New South Wales had formal connections with the Country Party¹⁹ and the Wheatgrowers’ Union in the same State had ties with the State Labour Party. Indeed, in the case of the Farmers and Settlers’ Association, the affiliation was written into the Association’s constitution, and this was originally an obstacle to amalgamation of the Association with the Wheatgrowers’ Union. After appropriate constitutional changes were made, the United Farmers and Woolgrowers’ Association was eventually formed.

But even if there are no significant formal ties, leaders in some of the farm organizations are also prominent in Country Party activities. This is particularly true of the Australian Woolgrowers’ and Graziers’ Council and its constituent organizations. There are many who believe that the various Graziers’ Associations are substantial contributors to Country Party election campaign funds. It is also reported that in certain electorates the Liberal Party receives financial support from the same sources and that organizations like the United Farmers and Woolgrowers’ Association continue to make donations to the Country Party. These statements are not easy to verify, but, given the overlapping interests of the personalities involved, they seem quite plausible. In short, I believe it is duplication of members and interests that gives rise to the apparently close nexus between the Country Party and the farm organizations rather than any “organic relationship”.

THE DRIVE FOR UNITY

The Australian farm organizations in the past five years have been subjected to considerable pressure from governments to achieve greater unity. In a few instances, this has taken the form of adumbrations about the political liabilities of diverse opinion within individual industries.

The leader of the Country Party and Minister for Trade, Mr. McEwen, for instance has reiterated this theme in season and out of season. For example, addressing the Australian Primary Producers’ Union in 1964 he said:

... It’s important that we who work in this field should speak with a unified voice. And I want to say the sooner primary industry in this country can

speaking with a more unified voice the better for the country, and certainly for Government which has to work with primary industry.

. . . You've just got to get a greater measure of unity within the ranks of primary industry in Australia if you are to get the best advantage out of organization. And, frankly, there is nothing more tormenting for a Minister, or a government, which wishes to work with primary industry—and *bona fide* I do and my Government wishes to work *bona fide*—there's nothing more tormenting than to have conflicting advice offered to you. That ought to be sorted out before the approach is made to the government, not put on the plate of government as conflicting advice, then divesting yourself of all your authority by virtually saying to government: "Well, here we've given you the conflicting advice; now you sort it out". This is weakness; this is not strength.²⁰

This is the voice of a man frustrated by schism between wool-growing interests over wool promotion and wool marketing. On occasions, Mr. McEwen has become even more blunt. For instance in 1961 he threatened:

The national implications of woolgrowers failing to agree on promotion are reaching the proportion that growers need not be surprised or offended if they get some aid in reaching agreement.²¹

His colleague, Mr. Adernann, the Minister for Primary Industry, regularly pursues the same theme. In 1963, he explained:

As a Minister, I have to deal with primary production problems all over the Commonwealth and this experience has reinforced my belief that closely knit primary producers' organizations, like this Council have the best chance of making their voices heard when representing the industry's interests.

It is confusing—and can even be frustrating—for a Minister to be approached by a variety of organizations claiming to represent the same industry but speaking with conflicting voices.²²

In 1965, Mr. Adernann reported to the Australian Agricultural Council:

Another praiseworthy development in our primary industries in the post-war period has been the increasing willingness of all sections of an industry to come together and to speak with a unified voice. This makes possible closer relationship and co-operation between industries and government.²³

There has been some consolidation of organizations within particular industry groups in recent years, some of which have already been referred to. For instance, in 1960 the Australian Woolgrowers' Council merged with the Graziers' Federal Council to form the Australian Woolgrowers' and Graziers' Council. In New South Wales, the Farmers and Settlers' Association of N.S.W. united with the Wheat and Woolgrowers' Association of N.S.W. to form the United Farmers and Woolgrowers' Association. These moves were under

discussion for many years and it is unlikely that Ministerial pleading had anything to do with the outcome. The negotiations for the merging of the A.P.P.U. and the N.F.U. on the other hand may have been assisted by Ministerial encouragement.

The major intra-industry conflicts in recent years have developed in the wool industry, but have not been confined to that industry.²⁴ As pointed out earlier, a divergence of interest has become evident between the organizations representing the smaller woolgrowers, who mix woolgrowing with other farming activities (particularly wheat-growing), and the older graziers' associations which predominantly represent larger scale specialized wool-producers operating in the pastoral zone or the tableland areas. The schism may be viewed as partly historical, partly geographical, partly ideological and partly in terms of personalities involved in the leadership of the organizations. The smaller producers in general look for some degree of governmental paternalism while the larger producers favour retention of that freedom from government interference that has long characterized the industry.

In an effort to find a formula for effecting compromise on policy differences, the Philp Committee recommended the establishment of a Wool Industry Conference where 25 representatives of each of the rival factions could reach decisions on behalf of the industry under the guidance of an independent Chairman.²⁵ The situation has become more complicated now that the A.P.P.U. has been permitted to appoint five representatives to sit on the Conference. During the course of the controversy about the basis of the franchise at the 1965 referendum on wool marketing, it became evident that there was little hope of any agreement on appropriate procedures for gauging industry opinion. Some argued for the principle of one vote for each producer, others wanted the voting rights distributed according to volume of production.²⁶ On the institutional level, there have been suggestions that the present method of constituting the Wool Industry Conference should be replaced by an electoral college system or a system of election by states, thus reducing the influence of farm organizations in the industry.

Much of what happened can be interpreted as the consequences of a misguided and rather futile compulsion to achieve a unified voice in an industry. Why must there be a consensus in an industry characterized by great political, economic and geographical differences? We do not expect such miracles in the broader political scene. We should not expect them in a large and diverse industry like the wool industry, but should rather encourage the provision of means for those with common interests to join together to promote those interests.

While it is clear that certain political advantages would accrue to primary producers if they heeded ministerial advice and achieved a

monolithic organization or even a unified opinion in a particular industry, I would seriously challenge the thesis that such an arrangement is conducive to the promotion of the public interest. One can appreciate that a minister's frustrations and worries (as well as those of his advisers) might be reduced if an acceptable agreed commodity policy were submitted by a particular industry, but a reduction in the number of sleepless nights of Ministers of the Crown and civil servants is not the ultimate criterion of good government.

I would submit that the interests of the community are best protected under a pluralistic set-up where practising politicians and administrators receive advice (perhaps widely divergent advice at times) from several farm organizations.²⁷ Under such arrangements, the germs of promising suggestions for improvements in policy can be fostered rather than run the risk of being stifled or sacrificed in the interests of unity. The chances that government will retain the upper hand and the position of other groups in the community will not be eroded are infinitely greater where farmer pressure groups are divided than where a monolithic farm bloc exists. This is as true of industry organizations as it is of general farm organizations. It is merely a matter of degree.

CONCLUDING COMMENTS

Though I have drawn attention to what I believe to be a few unhealthy developments in the body politic touching on farm organizations, I am convinced that these organizations have an increasingly important role to play in the Australian scene in the future. Both in their own interests and in the interests of maintaining an efficient adaptive agriculture in the coming years, the majority of Australian farm organizations need to develop a broader, less parochial and more penetrating approach in their attempts to influence the course of public policy. In the past they have interpreted their role in the community altogether too narrowly. I further believe that it would be better for Australian agriculture if general vocationally-based farm organizations were given room to develop instead of being forced, as the A.P.P.U. has been, into the traditional commodity mould. The commodity organizations which have dominated the Australian scene to date, it seems to me, have tended to promote narrowness of outlook.

Two decades have now passed since the Rural Reconstruction Commission presented its final report to the Commonwealth Government. The following extract from Professor Wadham's dissenting comment on Chapter IX of that report suggests that Australian farm organizations change very slowly.

The Commission took evidence from a large number of farmers' organizations. Certain of them were characterized by broad views and a great understanding of the problems of their industries, but these were exceptions rather than the rule. Many of the witnesses concerned lacked breadth of outlook on the real problems, and were often almost solely concerned with demanding a high price for the product, without thought as to the efficiency of the producers or the fact that they have responsibilities as well as rights and that they are part of the national economic structure.²⁸

29 | TRADE ASSOCIATIONS IN THE AUSTRALIAN ECONOMY

R. D. Freeman

INTRODUCTION

Interest in the structure, behaviour, and influence of trade associations in Australia has arisen from the 1962 Commonwealth Government proposals for new Restrictive Trade Practices legislation. Earlier Commonwealth legislation in the form of the Australian Industries Preservation Act (1906-50), and legislative provisions relating to restrictive practices in most States, have seldom been used, and they have not drawn attention to the activities of associations excepting Western Australia. The 1959 Western Australian Trade Associations Registration Act, however, does not attempt to control restrictive trade practices, but relates mainly to registration of associations and their constitutions.

As a result of renewed interest in restrictive practices, academic studies of associations have been largely confined to the ways in which associations attempt to regulate market and industrial activity. The most comprehensive study was by Mr. J. Hutton¹ but he is concerned with Western Australian associations only. For Australia as a whole, some reference to associations may be found in Professor Hunter's, March 1961, *Economic Record* article.² These sources, however, give an incomplete picture of associations as they are principally concerned with restrictive trade practices. Moreover, official information about associations is inadequate. In Western Australia, the government collects details of the organization and activities of associations, while in New South Wales, membership figures for some associations are collected under the Trade Union Act. Information is not available from official sources in other states. The picture of associations is therefore an incomplete one, with most emphasis placed on the relationship between associations and restrictive trade practices.

This paper is intended to fill some of the gaps in the literature by examining the structure, behaviour, and influence of associations within the framework of the Australian economy.

STRUCTURE*Association Strength*

No official machinery exists for the collection of information about the work of trade associations except in Western Australia, so that it is difficult to estimate the number of associations. Nevertheless, an Australian figure may be estimated from information available from four states. The 1961 Report of the Western Australian Registrar of Trade Associations stated that there were 163 associations registered in the State at that time,³ while in 1961 Mr. P. Cook estimated that there were 163 associations in South Australia.⁴ A search by the author in 1964 revealed 352 trade associations in Victoria. In Tasmania the existence of over 70 associations has been registered by the Royal Commission on Prices and Restrictive Practices,⁵ and, if Victorian experience of the division of associations between manufacturing, wholesaling, retailing and service is any guide, there would be about 100 associations in Tasmania, including local Chambers of Commerce.

These estimates include various small local Chambers of Commerce; there are 128 in Victoria, 20 in South Australia and 15 in Western Australia. If Chambers of Commerce are included as trade associations, the number of associations for the four States above is 778. On the assumption that the number of associations in New South Wales is similar to that of Victoria and that Queensland has about the same number as South Australia and Western Australia, the Australian total of associations would be about 1,250.

The structure of Australian associations is dominated by larger general associations. At least 112 associations in Victoria are affiliated in some way with five of the six larger associations, the big six being the Victorian Employers' Federation, the Victorian Chamber of Manufactures, Melbourne Chamber of Commerce, Federation of Victorian Chambers of Commerce, the Victorian Federation of Retailers' Associations and the Automobile Chamber of Commerce. In many cases smaller associations are members of more than one larger association. An important reason for this is that the smaller associations are able to take advantage of a wide range of services provided by larger associations. Larger associations in Victoria by providing secretarial and other services are concerned with the administration of at least 62 smaller associations, of whom some 31 are affiliated with two or more larger associations. These figures understate the actual position considerably, as of 73 associations contacted in Victoria, only three were not affiliated with another association. Many small associations are financially and physically tied to the larger associations; this is especially true of associations which have a common secretariat within Chambers of Manufactures. Many associations are too small to support a high level administrative structure

and are naturally drawn to the larger associations, particularly for finance and the provision of specialised services. In addition to local affiliations, the majority of trade associations have connections with federal or national associations.

The extent of multiple membership between associations clearly tends to increase the influence of the larger associations. The influence of the larger associations is greater than it appears as apart from their connections with smaller associations, many individuals and firms belong to at least one large and one small association. Large associations may exert influence on the smaller associations in many ways:

First, larger associations often act as the employer deputations to the State and Federal Governments, issue statements to press and radio, and edit and distribute pamphlets and journals.

Second, members of individual associations who sit on committees of large associations can themselves be influenced by discussion within such groups.

Third, association policy may be guided by the provision by large associations of specialized services including economic and market research.

Finally, larger associations, by holding regular functions for businessmen, may promote and guide discussions on common topics.

Industrial Classification

An examination of known associations in Victoria, South Australia and Western Australia show that manufacturing interests have the largest association representation. The author's Victorian figures are set out in Table 1.

TABLE 1

Industrial Classification of Victorian Trade Associations

Category	No. of Associations	% of Total
Manufacturing	66	29.5
Manufacturing and Distribution	54	24.1
Distribution	46	20.5
Service	58	25.9
Total	224	100.0

Of the 66 associations included in "Manufacturing", 34 are associations operating within the framework of the Chamber of Manufactures, indicating its influential position.

Membership

Turning to membership of associations, New South Wales is the only state where official information is available. In New South Wales figures collected under the Trade Union Act suggest that the most associations have memberships of less than 250.⁶ Mr. Cook has estimated the average membership of known South Australian associations to be about 200.⁷ The results of the author's survey of 36 Victorian associations are set out in Table 2.

TABLE 2
Membership Figures of 36 Victorian Trade Associations

Group Size	Number in Group	% of Total Survey
Under 50	5	13.9
50 and under 250	11	30.5
250 and under 500	7	19.4
500 and under 1,000	3	8.3
1,000 and under 2,500	4	11.1
2,500 and under 5,000	2	5.6
5,000 and under 10,000	3	8.4
Over 10,000	1	2.8
Total	36	100.0

The figures in this table support what is known in New South Wales and South Australia. As may be seen some two-fifths of associations have less than 250 members. Associations with between 2,500 and 10,000 members are the larger associations mentioned before, while that having over 10,000 members is an association of primary producers.

Association membership is normally open to all proprietors or employers engaged in a particular industry or trade, though associations almost invariably retain the right of exclusion. This also applies in larger associations, but their members are normally drawn from a wider range of industry and trade.

Administration

All but the larger associations seem to have a common pattern of organization. They are usually administered by an elected executive, council or board of directors, which meets regularly to decide policy matters, while the secretary is responsible for day-to-day administration. The permanent staff of associations generally consists of a secretary and a typist, though some associations are run by voluntary and part-time staff. Lawyers or accountants often act as secretary to one or more associations as do Ley Tily and Co., a firm of

accountants, for the Victorian Hardboard Distributors' Association, the Victorian Hardware Association and the Victorian Plywood Distributors' Association, plus other associations. Association members are often organized into committees which makes recommendations to the executive on policy matters and can thus influence and guide their executive. There may be several committees within an association covering such subjects as pricing and marketing policy, publicity, tariffs, membership, finance, research and social activities.

Finance

The finance of associations comes mainly from members' annual subscriptions which are levied in various ways; these include pro rata fees, and sliding charges based on annual turnover or the number of employees. An entrance fee is sometimes levied as well. With many of the smaller associations, annual subscriptions average about twenty pounds, but subscriptions based on a sliding scale may be comparatively high. For instance, the annual subscriptions of the Victorian Master Builders' Association rise to a maximum of £350, as Table 3 shows.

TABLE 3
Subscription Rates of the Victorian Master Builders' Association

Annual Turnover	Annual Subscription
Up to and including £50,000	£20
Over £50,000 and up to £75,000	£30
Over £75,000 and up to £150,000	£50
Over £150,000 and up to £300,000	£100
Over £300,000 and up to £500,000	£150
Over £500,000 and up to £1,000,000	£250
Over £1,000,000	£350

(Source: Memorandum and Articles of Association of the Master Builders' Association of Victoria, p. 13.)

Apart from annual subscriptions and entrance fees, members of associations may also be liable under their association's constitution to contribute to any extraordinary expenses not covered by other revenue. Additional finance also comes from business undertakings or from investment of association funds. The Victorian Employers' Federation and the Victorian Chamber of Manufactures have long established subsidiary insurance companies, while many of the other associations examined have provisions in their constitutions about the investment of funds. One interesting case is the Victorian Chamber of Fruit and Vegetable Industries, which has as one of its Objects the establishment "of such company or other organisation as may be

considered necessary or desirable for the purposes of manufacturing, bulk or co-operative purchasing, handling and distribution of sprays, fertilisers, supplies, plants or other commodities required by members or by producers engaged in the Fruit and/or Vegetable Industries and to invest the funds of the Chamber therein".⁸

One reason for the existence of such a large number of Australian associations is that membership is relatively inexpensive. This is true of associations whose administrative work is handled by the larger associations, enabling the small association to keep its overhead costs down, particularly office accommodation. In other cases two or more associations may keep down costs and subscriptions by sharing their administrative expenses.

In Victoria some associations have found it useful to incorporate as companies, including The Guild of Furniture Manufacturers, the Master Builders' Association, the Employers' Federation and the Chamber of Manufactures. Associations which have incorporated as companies are generally the larger associations which own premises and have extensive financial and other commitments.

Organization

The organization of larger associations is complex both with regard to their management and their activities. With the Victorian Chamber of Manufactures responsibility for policy is vested in a council consisting of all office-bearers and ex-presidents, of representatives from each trade section or division of the Chamber which has more than six members, of ten members who represent the ordinary members of the Chamber, of six members representing country members of the Chamber, and of any other members as the Council may deem necessary. In addition to the Council there is an Executive consisting of all office-bearers and ex-presidents and no less than eight other members of Council. The Executive is responsible for effecting the resolutions of Council and for the actual administration of the Chamber. The organization of the Victorian Employers' Federation is similar to that of the Victorian Chamber of Manufactures. The main difference between the two organizations is that the policy of the Employers' Federation is determined by a Board of Governors rather than by the Council. The Executive Committee of the Employers' Federation is similar in all respects to that of the Chamber of Manufactures.

There are minor variations in the organizations of other larger associations in Victoria, but in general they follow the pattern adopted by the Employers' Federation and the Chamber of Manufactures. There are usually various divisions or sections within the larger associations under the control of numerous officers responsible to the Executive for day to day administration. The sections of the Victoria

Chamber of Commerce are designated, Arbitration, Civic Affairs, Public Relations, Prices and Taxation, Legislative, Membership, Development, Economics, Trade Fair, Entertainment, and Premises. Most other large associations have similar specialist sub-sections.

THE REPRESENTATION OF INDUSTRY

Representational functions are considered to be the most important by many of the association officials interviewed. In a list of twenty-three objects and purposes of associations arranged in order of importance by the Western Australian Registrar of Trade Associations, representational aims rate highly. After three general objects comes the object: "To watch and consider legislation; to prepare statements of case in respect of industrial matters and/or government control."⁹ This object, however, covers only the main part of the representational functions, and associations do pursue their aims further into the general industrial and commercial spheres. The advantages of regular contact between governments and organizations representing business interests are well known and are fully discussed in P.E.P.'s *Industrial Trade Associations: Activities and Organization*¹⁰ and we shall limit ourselves to a brief summary of the main points arising out of discussion with Australian association officials.

The government often finds it very useful to be able to consult at short notice with association officials representing a particular industry rather than with a large number of independent firms. By periodic discussions with association officials, government departments can keep abreast of major industrial developments, gauge the reaction of industry to government proposals likely to affect business interests, and obtain specialist advice on technical and commercial matters. Industry can also gain by contact between government departments and associations. Among the benefits is a recognized channel through which industry can press its case for changes in existing and proposed legislation, and in other ways protect and promote its members' interests. As association officials regularly consult with a number of government departments, they know by experience how to present their case and often may be able to do so more effectively than an individual firm. This not only saves time for industry but increases the likelihood of success.

In Australia the position is complicated by the high degree of monopoly and oligopoly in many major industries, which has tended to restrain the growth of the representational functions of associations below that of their counterparts in Great Britain.¹¹ Another apparent difference is the greater diffusion of effort in Australia resulting largely from the lack of co-ordination between trade associations. Some industries are represented by up to eight associations

attempting to achieve the same ends in one State. This unnecessary duplication of effort is probably the main factor hindering the growth and influence of associations today. Apart from the advantages to industry and the public service of the representational functions, the main reason for the increasing emphasis placed on it in recent years has been a growing awareness by associations of their responsibility to ensure that members abide by the law. Associations must not only keep their members fully informed of all relevant legislation, but they must also be aware of an attempt to influence the nature of proposed legislation and amendments to legislation which are likely to affect their members' interests.

As would be expected, the Federal system of government in Australia has resulted in a well-defined division of duties between national and State associations. In the majority of cases investigated by the author, national associations are concerned principally with matters under Federal Government jurisdiction, and State associations are only involved from time to time. Larger State associations such as the Employers' Federations and Chambers of Manufactures, however, do participate in business and commercial deputations to the Federal Government. Both the Victorian Chamber of Manufactures and the Melbourne Chamber of Commerce have within their organizations a "legislative" section whose duties cover both State and federal government activities. The Victorian Employers' Federation carries out similar functions and issues a regular "Parliamentary Service Letter" which contains commentaries on the main items of parliamentary interest (federal and State), proposed legislation, and a list of federal Ministers due to visit Melbourne.

Over the last three years joint consultations between associations and the Federal Government have increased markedly. The proposed Restrictive Trade Practices Legislation has been in part responsible for this. It is quite common for associations to form a special organization when they consider the free enterprise system is being threatened, as they did during the 1948 Bank Nationalization campaign. The Restrictive Trade Practices proposals have had the same effect: "A Trade Practices Division is being established within the Associated Chamber of Manufactures of Australia so that the needs of manufacturing industry in relation to the Federal Government's proposals for restrictive trade practices legislation may be serviced fully and promptly. Major representations have been made by A.C.M.A. to the government recommending modifications and reductions in the scope of the proposals. A.C.M.A. was the first national organization to make such representations; it has led in public discussions of the proposals: and it has joined with other major bodies in making representations to the Prime Minister and his Ministerial colleagues."¹² The submission of the Associated Chambers of Manufactures of Australia to the Federal Government on the proposed Restrictive

Trade Practices legislation was in fact made in conjunction with the Federal Chamber of Automotive Industries, the Australian Council of Retailers and the Associated Chambers of Commerce of Australia. Many national and State associations also made representations to the Attorney-General's Department on the proposals, and often did so at the request of the Department.

Apart from the periodic issues regarded by associations as major attacks on the free enterprise system, there are several issues—usually of a contentious nature—which are subjects of recurring deputations to the Federal Government. Payroll taxation, sales taxation, and company income taxation appear regularly in annual reports, particularly of the larger associations, as subjects of discussion with the Federal Treasury. For example, the Victorian Chamber of Manufactures have in the past, made representations to the Federal Treasurer to remove existing taxation anomalies, prior to the formulation of the Budget. One interesting case was reported from the soft drink industry in 1959: "The Secretary reported having sent 798 telegrams to members of both Federal Houses of Parliament, asking them to take action to secure the remission of sales tax on soft drinks. Each Federal member received 38 telegrams, all worded alike, and the cost to each association member was £4 14s. 9d."¹³

A recent development of some significance for economic policy and planning is the introduction of periodic consultations on economic matters between the government and representatives of the national associations. It is now official policy of the Associated Chambers of Manufactures to work for an expansion of the practice of joint consultation on economic policy. With the increasing co-operation between the Chambers of Commerce, Chambers of Manufactures, the Employers' Federations, other smaller associations and the Department of Trade, it is essential that representatives of industry are consulted regularly on effects of fiscal and monetary policy in the interests of the national economy and the growth of manufactured exports.

Although national associations are primarily responsible for industry liaison with Federal Government departments, some of the State associations are also active in this field. The smaller State associations, however, are more interested in representing their members on more commercial and technical matters than their federal counterparts.

In dealing with State governments "one trade" associations are more important, the larger associations being involved mainly in the wider fields of education, State development, decentralization, etc. The Master Plumbers' Association of Victoria is an interesting case study, even though its activities in these fields are more highly developed than those of most other small associations. The plumbers have regular quarterly meetings with the Melbourne and Metropolitan Board of Works to discuss policy and technical matters. It is not

unusual for the agenda of these meetings to contain over a dozen major items. Regular meetings are also held with the Victorian Education Department and the C.S.I.R.O., and on a less formal basis occasional deputations are sent to the State Public Works Department and Housing Commission, mainly to discuss commercial rather than technical problems.

Association officials may also represent industry before Federal Government enquiries and boards established to investigate aspects of policy-making and administration. A recent example of this is the associations' submissions to the Commonwealth Committee of Economic Enquiry covering industry's views on such things as economic growth, tariff policy, immigration, overseas investment, Commonwealth purchasing and decentralization.

While national and State associations seldom overlap in their dealings with government departments, they are both active at hearings before the Tariff Board. The State and Associated Chambers of Manufactures and Chambers of Commerce are frequent witnesses for their members before the Tariff Board and many smaller State associations are also concerned with tariff matters and submissions to the Board. However, trade associations do come into open conflict, not evident elsewhere, with regard to tariff matters. This is not really surprising where associations representing manufacturing and retailing interests respectively use the Tariff Board to protect their members' interests which may be diametrically opposed on matters of tariff policy.

THE PROVISION OF COMMON SERVICES

This category includes organization of trade fairs and exhibitions, provision of trade and business information and statistics, publication of trade journals, and provision of joint advertising and facilities for research. As P.E.P. point out, the distinguishing feature of these functions is that they do not "... primarily involve representation to other groups, but arise out of the recognition that some things can only be done, and others done more effectively, by collective action, and are equally part of the external economies which associations organize for their industries".¹⁴ Associations differ in their provision of common services in much the same way as they do in their representational activities. Larger associations aim to improve the efficiency of and provide assistance for the development of industry generally, while small associations are normally concerned with the promotion of a single industry or trade.

The organization of trade fairs and exhibitions is mainly the concern of small single industry associations; often however, several associations join forces to stage an exhibition. In Victoria, for instance,

the Boat Show is organized by the National Marine Association which consists of the Boat Builders' Association, the Boat and Yacht Fittings Association, and the Boating Industries Association. Some associations have been formed purely to organize exhibitions. Of the larger associations, the Chamber of Manufactures and the metropolitan Chambers of Commerce are the most active in this field of promotion.

Associations use a variety of methods to provide their members with trade and business information, but the main medium is the trade journal. Publication of many trade journals is undertaken by commercial publishers, as is the *Textile Journal of Australia*, which is published by Merchandising Magazines Pty. Ltd., for 31 associations. The range of material contained in some journals is of interest. The *Leather Journal* which is the official publication of five associations recently contained articles on overseas fashions, imports of Chinese shoes, new production techniques, export possibilities, tariffs, production trends, and social events. The *Australasian Grocer* in the past year has contained items on the retailing of frozen foods, decimal currency, improvements in packaging, retail trading statistics, and company news. Normally, journals of smaller associations cover events in a particular industry or trade. Articles of more general interest are sometimes included in journals of small associations, but normally they are found in journals of larger associations. A journal, representative of the publications of larger associations, *Queensland Industry*, has recently contained articles on the introduction of decimal currency, national economic planning, state of the labour market, trade and tariffs, and employers' liabilities under the National Service Training Act, 1964.

Many associations are too small to afford journals even if they combine with other associations in the same or related industries. These associations normally issue news sheets and trade bulletins. They may rely, however, on space provided for news of their industry in journals of larger associations and particularly those of the Chamber of Manufactures. News sheets may also be issued as regular supplements to journals. Information contained in news sheets and bulletins normally follows the same pattern as in journals, but some associations have specialised bulletins devoted to such things as political developments, labour news, and trade statistics.

Statistics issued by trade associations are of two main types; first, those collected by associations from official sources, and second, statistics obtained from individual firms. Many associations devote a considerable part of their time to collecting material from the Commonwealth and State Government Statisticians. Where information is required from members, a confidential questionnaire is normally used. An interesting example of this method is that which has been used by the New South Wales Retail Traders' Association and the Victorian Master Drapers' Association. Each month a representative group of

department stores in Melbourne sent returns of sales to the Commonwealth Bank in Sydney where the returns were collated. The total figures were then sent by the bank to the association which distributed them to members. The returns submitted to the bank were identified by a code number known only by the association, while the association does not see individual returns. In this way details of sales of individual stores remain confidential.

While several larger associations employ qualified research officers, associations often engage market research agencies for detailed surveys. This, however, does not detract from the usefulness of the services provided by associations; indeed, for many small businesses, associations are the only source of trade and business information.

Finally, there is technical research. Only a limited number of industries have sponsored or undertaken research on technical matters through their associations; the plastics and bread industries are two which have done so. The plastics industry has no formal research organization; private firms and the CSIRO are commissioned by the Plastics Institute of Australia from time to time to undertake research projects. At present several separate projects are in progress on the possibilities of adapting PVC piping for general industrial and household use. Associations in the bread industry support the Bread Research Institute of Australia which was established in 1947 to undertake research and development work and to provide technical services for the industry. The Institute which had a technical staff of nineteen in 1964, works in liaison with the CSIRO Wheat Research Unit. Income in 1964 was £85,646, of which the CSIRO contributed £18,100. The major part of the Institute's income, however, comes from the Bread Manufacturers' Association in each State who levy their members 2s. per ton of flour used. The Institute's work is internationally recognized and some of the methods it has developed are in use overseas.

THE REGULATION OF COMPETITION

This aspect of association functions includes all activities normally called restrictive trade practices, and is that part of associations' functions which has attracted most attention. Sir Garfield Barwick, when he was Australian Attorney-General considered that "A quick measuring rod of the extent to which restrictive trade practices are being operated is the number of trade associations which are functioning", and further that, "The primary reason for the existence of most of these associations is to devise and to administer trade practices to protect the interests of their members".¹⁵ Professor Hunter is more guarded; in his view "... the only method of assessing the incidence of restrictive activity in Australia appears to lie in an examination of the nature

and number of trade associations—the principal vehicle for the operation of restrictive agreements”.¹⁶ As was indicated previously, the only Australian State which enforces restrictive trade practices legislation at the present time is Western Australia, but the scope of the legislation is mainly concerned with the registration of associations and provisions as to association constitutions.

Clearly there is an obvious and accepted relationship between associations and the administration of restrictive trade practices. It is, however, questionable whether “most” Australian trade associations are concerned with trade restriction, or that trade restriction per se is “the primary reason for the existence” of such associations. For any worthwhile assessment of restrictive practices two main features must be borne in mind. The first in the institutional and competitive structure of the Australian economy as such, and in particular the highly monopolised structure of the economy. Second, and arising out of this is the nature of trade practices, some of which may be restrictive and operate with or without the assistance of associations.

Many associations issue recommended price lists to be followed by their members. However, these associations do not usually have the power to enforce compliance with such recommendations, and the price lists are intended to be used as a guide to pricing policy only. In many cases associations’ price lists are based on the formulae laid down during the Second World War by Federal and State Prices Commissioners with adjustments for increases in costs being made from time to time. The price lists of some associations are based on decisions made by the South Australia Prices Commissioner where applicable. South Australia and Queensland are the only States which still retain price control on some items, but price control is more effective in South Australia and in some cases the prices laid down in South Australia appear to be adopted in Queensland.

Industries and trades whose market activities are normally influenced by associations’ recommended price lists, are generally those which consist of large numbers of business units. Industries in this category would include clothing and footwear, many types of food manufacturing, and such trades as plumbing, electrical installation, and general hardware supplies and services. The establishment of wartime price control has contributed more than any other factor to the present pricing policies of many associations. Associations point out that proprietors and management of many small businesses have little knowledge of adequate costing and pricing techniques and therefore rely on the price lists issued regularly by their associations, who naturally continued to provide price listing as this function was gradually abandoned by the Federal and some State governments.

Other institutional factors in the Australian economy have also encouraged the widespread adoption of orderly marketing schemes

and similarity of prices between large numbers of firms. Statutory Marketing Boards for primary products, the policy of protection against cheaper overseas imports as administered by the Tariff Boards, and the Australian system of arbitration and wage determination are in all cases in point. Statutory Marketing Boards, by setting prices for primary products, are acting in a restrictive fashion. While these activities may be justified, they have the important influence of affecting the ability of other sections of the business world to compete effectively. For instance, the costs of raw materials for much of the food industry, are identical for all firms, and the margin in which individual firms can compete on price is narrowed. In isolation, these effects may not be large, but when combined with the other institutional arrangements mentioned above they have a considerable impact on the nature of industrial and market activity. Similar considerations also apply with respect to the national policy of protection against cheaper overseas products. Hearings before the Tariff Board take the form of enquiries into the cost structure of individual firms and industries, and the findings of the Boards are freely available. Any protection granted by the Board has the effect of establishing a common minimum price for all firms in the industries concerned. Associations may play a part in representing their industries before the Tariff Board, but in general, associations representing manufacturing interests seek protection, while retailers' and wholesalers' associations oppose restrictions and tariffs on imports.

The Australian system of arbitration and wage determination is another important factor which has repercussions on the competitive structure of the economy. There are, of course, small variations between States in the wage rates in different occupations, but minimum wages are determined generally on a national basis. Many associations which have employer members represent them at hearings of the various wage-fixing bodies in all States, and seem to encourage the establishment of more uniform wage rates. The employers' Total Wage argument in recent years is the most important example of this trend. The effect of national uniform wage rates on the cost structure of Australian industry is considerable as labour costs represent the largest item of expense in many industries and trades. In 1961-62 salaries and wages paid represented over 50 per cent of the value of production for 11 of the 16 major categories of industry defined by the Commonwealth Statistician.¹⁷ Because of this and the inflexible nature of wages, there would be little variation in costs between firms in many industries. Possibilities for individual firms to compete on price are therefore substantially reduced.

It is clear that there are institutional arrangements and traditions of price control in the Australian economy, apart from any deliberate action by associations, which have produced a marked degree of price rigidity. This price rigidity throws doubt on the usefulness of the

proposed Restrictive Trade Practices Legislation. The proposed legislation may increase price and other forms of competition, but because of the relatively small margins between total costs and costs which are determined on a national basis, the impact of the legislation may be marginal. Traditions of price rigidity also focus attention on the high degree of concentration in Australian industry. Dr. Maureen Brunt estimated that on the basis of employment statistics, 50 per cent of Australian manufacturing industry is highly or fairly concentrated,¹⁸ while 50 per cent of retail industries investigated by Dr. Brunt represent oligopolistic markets.¹⁹ Industries said by Dr. Brunt to be concentrated or oligopolistic are those industries which could be expected to be lacking in effective competition. These industries are, however represented by a relatively small number of associations. Many industries which are not highly or fairly concentrated support the greatest number of associations and industries in these categories often support several associations in each state.

The importance of restrictive practices varies considerably from association to association. In manufacturing industries, much depends on the number of firms and whether or not agreement has been reached with the retailers. The smaller the number of firms, the easier it is to police restrictive agreements and little time is spent by associations in policing agreements. As the number of firms increases, problems of enforcing restrictive agreements multiply and associations become more important. This is particularly true in retailing. Associations appear to be most active at those levels of competition where restrictions on competition will have the least effect. In many associations the operation of restrictive trade agreements is not of great importance, and for many representational functions and the provision of common services are of equal importance.

Some idea of the importance of associations in the entire field of trade restriction in Australia may be obtained by looking at a few examples of restrictive practices which are apparently organized and controlled without assistance of associations. Perhaps the outstanding example of an industry operating restrictive practices without assistance of associations is the oil industry. A highly concentrated industry consisting of ten major firms and a fully-owned subsidiary, the industry administers a variety of restrictive practices. Among the more important of these practices are retail price maintenance, discriminatory rebates, tied retail outlets, and standard industry qualifications for installation of dispensing equipment. The position is somewhat different in South Australia and Queensland where price control still applies to petroleum products. Breaches of these agreements are common but there are well-established procedures to handle complaints of unfair trading. There are other agreements between oil companies, but these apply mainly to the distribution of petroleum products and result in prices being lower than would be

the case if they did not exist. The most important agreements of this type are refinery borrow and loan and exchange agreements. Briefly, under these agreements a company may borrow or exchange a parcel of fuel with another company in a different State, and save on transport costs from, say, its refinery on the eastern coast to its Western Australian market.

Information available about trade practices in some of the other more highly concentrated Australian industries indicates that associations are not always involved in the operation of agreements at all levels. This is the case in manufacturing industry, and particularly in respect to the sale of tyres, tubes and fittings, batteries, fine paper, some types of iron and steel products, glass and cigarettes. The nature of agreement varies from industry to industry; the most common type is price control enforced by threat of withholding supplies. The manufacturers of these repeat selling products normally lay down a structure of wholesale and retail prices which generally apply throughout Australia. Manufacturers fear that if price control breaks down then big buyers may obtain an oligopoly position in the market, which may reduce the scope of distribution of their products. Conversely, in other industries, notably cigarettes, manufacturers may seek to handle the situation differently and by-pass wholesalers' and retailers' associations. Cigarette manufacturers are forcing the price breakers to sell below the agreed retail price by threatening to withhold supplies. In this way they are disciplining the price breakers at the expense of the wholesalers' margins.

In general, the type of practices described above are not related to association activities as such, but they reflect the non-competitive and monopolistic nature of Australian industry which has enabled a limited number of large firms to impose their policies on the market. This in turn is a reflection of many factors, including the limited size of most markets in the early stage of development and the policy of tariff protection associated with the founding of a national system of wage determination. It appears difficult to substantiate Sir Garfield Barwick's claim that the "primary reason for the existence of most trade associations is to devise and administer trade practices . . ." of a restrictive nature. In practice, many associations have little or nothing to do with the operation of restrictive trade practices.

NOTES TO TEXT

PREFACE, p. v

- 1 Henry Mayer (ed.), *Australian Politics: A Reader* (2nd ed.; Melbourne, 1967).
- 2 L. F. Crisp, *Australian National Government* (Melbourne, 1966).
- 3 A. F. Davies, *Australian Democracy* (2nd ed.; Melbourne, 1964).
- 4 J. D. B. Miller, *Australian Government and Politics* (3rd ed.; London, 1964).

PART I, POLITICAL POWER

INTRODUCTION, p. 1

- 1 W. K. Hancock, *Australia* (London, 1930).
- 2 Russel Ward, *Australian Legend* (Melbourne, 1958).
- 3 R. A. Gollan, *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910* (Melbourne, 1960).
- 4 Patrick Ford, *Cardinal Moran and the A.L.P.* (Melbourne, 1966).
- 5 Richard Hofstadter, *The American Political Tradition* (New York, 1948) and *The Age of Reform* (New York, 1955).
- 6 Louise Overacker, *The Australian Party System* (New Haven, 1952).
- 7 James Jupp, *Australian Party Politics* (Melbourne, 1964).
- 8 D. W. Rawson, *Labor in Vain?* (Melbourne, 1966).
- 9 B. D. Graham, *The Formation of the Australian Country Parties* (Canberra, 1966).

1. SOME NOTES ON THE CONCEPT OF POWER by P. H. Partridge, p. 3

- 1 Talcott Parsons, "Distribution of Power in American Society", *World Politics*, X (1957).
- 2 Robert Bierstedt, "The Problem of Authority" in M. Berger, T. Abel, and C. H. Page (eds.), *Freedom and Control in Modern Society* (New York, 1954).
- 3 Bertrand Russell, *Power: a New Social Analysis* (London, 1936), p. 35.
- 4 R. A. Dahl, "The Concept of Power", *Behavioral Science*, II (1957).

- 5 H. A. Simon, "Notes on the Observation and Measurement of Political Power" in H. A. Simon (ed.), *Models of Man* (New York, 1957).
- 6 In one popular usage, the distinction between "influence" and "power" seems to be related to a difference in intensity. A man will often say about another: "I know that I cannot control him but I think I may be able to influence him" —that is, I know that I cannot get him to act exactly as I want him to act, but I can perhaps get him to come part of the way to meet my wishes. This, of course, is quite different from my own use of "influence".
- 7 C. Wright Mills, *The Power Elite* (New York, 1946).
- 8 R. A. Dahl, "A Critique of the Ruling Elite Model", *American Political Science Review*, LII (1958).
- 9 J. G. March, "Introduction to the Theory and Measurement of Influence", *American Political Science Review*, XLIV (1955), and references in Dahl's article cited in footnote 4.
- 10 Parsons, *op. cit.*

2. POWER IN AUSTRALIA by R. S. Parker, p. 21

- 1 In the seminar for which the original of this essay was prepared, this was accepted as a working definition in the preliminary papers by Professor P. H. Partridge. Cf. his published version of the relevant one: "Some Notes on the Concept of Power", reprinted as the first article in this volume.
- 2 P. H. Partridge, "Politics and Power", *Philosophy*, XXXVIII (1963), 129 and *passim*.
- 3 David Easton, *The Political System* (New York, 1953).
- 4 For a discussion of these events see P. H. Partridge, "Depression and War" in G. Greenwood (ed.), *Australia: A Social and Political History* (Sydney, 1955), pp. 352 and 359.
- 5 Partridge, "Some Notes on the Concept of Power", p. 3; "Politics and Power", p. 118.
- 6 T. V. Smith, *Beyond Conscience* (Chicago, 1934).
- 7 Leo Blair, "Arbitration and Staff Relations in the Commonwealth Public Service" in R. N. Spann (ed.), *Public Administration in Australia* (Sydney, 1958).
- 8 *Australian Democracy* (2nd ed., Melbourne, 1964), p. 4.
- 9 Edward L. Wheelwright, "The Dilemma of Margins", *Federal Public Service Journal*, XLII (1962), 21.
- 10 E.g. A. G. L. Shaw, *The Story of Australia* (London, 1954), pp. 267-68; R. M. Crawford and C. F. James, "The Gold Rushes and the Aftermath, 1851-1901" in C. Hartley Grattan (ed.), *Australia* (Berkeley, 1947); R. Collan, "Nationalism, the Labour Movement and the Commonwealth, 1880-1900", and G. Greenwood, "National Development and Social Experimentation, 1901-14" in G. Greenwood (ed.), *Australia: A Social and Political History* (Sydney, 1955).
- 11 Frederick W. Eggleston, *State Socialism in Victoria* (London, 1932), pp. 296-97 and 302-3.
- 12 Ian Campbell, "Groups, Parties and Federation" in Peter Loveday and Ian Campbell, *Groups in Theory and Practice* (Melbourne, 1962).
- 13 S. Encel, "Power" in Peter Coleman (ed.), *Australian Civilization: A Symposium* (Melbourne, 1962).
- 14 Cf. Peter H. Karmel and Maureen Brunt, *The Structure of the Australian Economy* (Melbourne, 1962), chap. 3.
- 15 Heinz W. Arndt's address to the Economic Society of Australia and New Zealand, Canberra, 1957, quoted in Encel, *op. cit.*

- 16 Cf. Roger Wettenhall, "Aspects of Political Control in Selected Public Transport Corporations" (Ph.D. thesis, A.N.U., 1962); R. S. Parker, "Public Enterprise in New South Wales", *Australian Journal of Politics and History*, IV (1958).
- 17 Frederick W. Eggleston, *Reflections of an Australian Liberal* (Melbourne, 1953), p. 138.
- 18 W. K. Hancock, *Australia* (Sydney, 1945), p. 62.
- 19 André Siegfried, *Democracy in New Zealand* (London, 1914), p. 57. Emphasis supplied.
- 20 Examples of these studies include: J. D. B. Miller, *Australian Government and Politics* (London, 1954); Eggleston, *Reflections of an Australian Liberal* (Melbourne, 1953); S. R. Davis (ed.), *The Government of the Australian States* (Melbourne, 1960); Encel, *op. cit.*
- 21 Henry Mayer, "Some Conceptions of the Australian Party System, 1910-1950", *Historical Studies—Australia and New Zealand*, VII (1956).

3. THE CONCEPT OF THE STATE IN AUSTRALIAN POLITICS by S. Encel, p. 34

- 1 G. Sawer, "Political Science in Australia" in *Contemporary Political Science* (Paris, 1950).
- 2 Henry Mayer, "Some Conceptions of the Australian Party System, 1910-1950", *Historical Studies—Australia and New Zealand*, VII (1956).
- 3 A. F. Davies, *Australian Democracy* (Melbourne, 1958), p. 3.
- 4 *Ibid.*, p. 137.
- 5 *Australian Government and Politics* (London, 1955), p. 54. The choice of the term is not entirely felicitous and illustrates the difficulty of domesticating European political terminology in the English language. In Australia, "syndicate" would normally suggest lotteries or other financial games of chance.
- 6 *Ibid.*, p. 68.
- 7 Hobbes, *Leviathan* (London, Everyman ed.), pp. 90-91.
- 8 W. K. Hancock, *Australia* (London, 1930), p. 65.
- 9 *Ibid.*, p. 61.
- 10 *Ibid.*
- 11 E.g. the destructive analysis by Mayer, *op. cit.*
- 12 Cf. a statement by G. D. H. Cole ("By Socialism I mean nothing less than a society without classes, and not one in which a new class-structure has replaced the old. It is *not* the policy followed by a Labour Government which is not seeking to establish a classless society, but only to nationalize a few more industries and add a few more pieces to the equipment of the Welfare State.") in *Is This Socialism?* (London, 1954), p. 3.
- 13 *State Socialism in Victoria* (London, 1931), p. 30.
- 14 *Op. cit.*, p. 118.
- 15 A. G. Price and R. Kerr, "Liberal Party Policy" in A. C. Garnett (ed.), *Freedom and Planning in Australia* (Madison, 1949), p. 292.
- 16 The crucial importance of day labour in state enterprise is pointed out by J. B. Brigden, "State Enterprises in Australia", *International Labour Review*, XVI (1927), who adds: "The causes of state enterprise are not to be found in any deliberate intention to develop some kind of Socialism, for although this ideal has been vaguely influential with the Labor Party, by far the greater part has been prompted by avowed anti-Socialists." See also Bruce Mansfield, "The State as Employer", *Australian Journal of Politics and History*, III (1958).

- 17 Letter in the *Sydney Morning Herald*, quoted by H. V. Evatt, *Australian Labor Leader* (Sydney, 1940), p. 508. The non-doctrinaire character of many of the "industrial undertakings" set up by Labor governments in New South Wales is discussed at length by R. S. Parker, "Public Enterprise in N.S.W.," *Australian Journal of Politics and History*, IV (1958).
- 18 *Op. cit.*, pp. 134-35.
- 19 In the preface to *Reflections of an Australian Liberal* (Melbourne, 1952).
- 20 *Op. cit.*, pp. 120-21.
- 21 D. B. Truman, *The Governmental Process* (New York, 1955), p. 52.
- 22 Economists who lament the passing of laissez-faire assist in perpetuating this view.
- 23 E.g. J. B. Brebner, in *Journal of Economic History*, Supplement 8, (1948); T. W. Hutchinson, in *Economic Journal*, LXVI (1956); O. R. McGregor, in *British Journal of Sociology*, VIII (1957).
- 24 Noel G. Butlin, "Colonial Socialism in Australia, 1860-1900" in Hugh G. J. Aitken (ed.), *The State and Economic Growth* (New York, 1959).
- 25 *Ibid.*
- 26 N. G. Butlin, "The Shape of the Australian Economy 1860-1900", *Economic Record*, XXXIV (1958).
- 27 "Colonial Socialism in Australia".
- 28 Report of the Royal Commission on the Civil Service of Victoria, 1859, p. 8.
- 29 K. W. Knight, *History of the Public Service in N.S.W.* (M.Ec. thesis, University of Sydney, 1956).
- 30 *Loc. cit.*
- 31 Albert Métin, *Le Socialisme Sans Doctrines* (Paris, 1901), p. 255.
- 32 *Ibid.*, p. 256. Métin admits, rather ruefully, that this single-mindedness has produced far more results than in countries with well-developed social philosophies.
- 33 *Ibid.*, p. 74.
- 34 André Siegfried, *Democracy in New Zealand* (London, 1906), p. 51.
- 35 *Ibid.*, p. 57. Australians cannot fail to recognize the applicability of this remark to the contemporary scene in at least two Australian states.
- 36 Métin, *op. cit.*, p. 229.
- 37 *Socialism* (a pamphlet report of the Reid-Holman debate held at Centenary Hall, Sydney, 3 April 1906) (Sydney, 1906), pp. 62-63.
- 38 J. B. Condliffe, *New Zealand in the Making* (London, 1930), pp. 164-65.
- 39 J. S. Mill, *Representative Government* (Everyman ed.), p. 175.
- 40 This does not mean, of course, that state action in Australia has solely or even largely been aimed at benefiting the special interests of particular interest groups. Nor does it imply that governments in Australia never act out of consideration of the general welfare. It is improbable that the general welfare has benefited less, or sectional groups significantly more, than in other democratic countries. Nevertheless, the prevalence of this view of the State has other political consequences of the greatest importance.
- 41 Cf. A. D. Lindsay, *The Modern Democratic State* (London, 1947), p. 37, when he describes the task of political theory as the study of "operative ideals", which differ as between different states.
- 42 Cf. the discussion by C. Wright Mills, *The New Men of Power* (New York, 1948), chap. 6, of the pervasiveness of the "liberal rhetoric" in the United States, despite the growing bureaucratization of industry and of industrial relations.
- 43 A list of these perennial themes is given by R. A. Nisbet, "Conservatism and Sociology", *American Journal of Sociology*, LVII (1952).
- 44 An important example of the heterodox use of Marxism for this purpose is the demonstration of the decisive economic and social role of the state in

- Chinese history by the historian Karl Wittfogel e.g. in *Oriental Despotism* (New Haven, 1957).
- 45 A. H. Cole, *A Finding List of Royal Commission Reports in the British Dominions* (Cambridge, Mass., 1939) lists 194 for Canada, 157 for New Zealand, 139 for South Africa, as against 710 (!) for Australia. At an average rate of 8 per year, Royal Commissions have a strong claim to be included as "organs of syndical satisfaction".
 - 46 E.g. South Australia, 1934 to 1965; Tasmania, 1934 to date; Western Australia, 1934 to 1947; Queensland, 1932 to 1957; New South Wales, 1941 to 1965.
 - 47 Cf. Sawer, *loc. cit.*
 - 48 Preface to *Studies in Australian Politics* (Melbourne, 1958).

PART II, CABINET

INTRODUCTION, p. 51

- 1 S. Encel, *Cabinet Government in Australia* (Melbourne, 1962).
- 2 W. Ivor Jennings, *Cabinet Government* (Cambridge, 1936).
- 3 John P. Mackintosh, *The British Cabinet* (London, 1962).
- 4 J. A. La Nauze, *Alfred Deakin* (2 vols.; Melbourne, 1965).
- 5 L. F. Fitzhardinge, *William Morris Hughes* (Sydney, 1964), Vol. I.
- 6 Cecil Edwards, *Bruce of Melbourne* (London, 1965).
- 7 Dame Enid Lyons, *So We Take Comfort* (London, 1965).
- 8 L. F. Crisp, *Ben Chifley* (Melbourne, 1961).

4. COUNCILS, MINISTERS AND CABINETS IN AUSTRALIA by Geoffrey Sawer, p. 53

- 1 Tasmania and South Australia in 1854 and 1856, by local Acts authorised by the (Imperial) Australian Colonies Act, 1850 (13 & 14 Vict. c. 59); New South Wales and Victoria in 1855 by Imperial Acts (18 & 19 Vict. c. 54, 55); Queensland in 1859 by Order in Council made under 13 & 14 Vict. c. 59 and 5 & 6 Vict. c. 76; Western Australia in 1889 by local Act, validated by a retrospective Imperial Act of 1890 (53 & 54 Vict. c. 26).
- 2 Commonwealth of Australia Constitution Act (Imperial), 1901.
- 3 Quick and Garran, *Annotated Constitution* (Sydney, 1901), p. 166.
- 4 The documents were in common form. A fresh set was issued in 1900, partly to deal with the coming of federation and partly to meet criticisms of their content, which had been particularly strong in the state of Victoria. For examples of the revised forms see South Australian Statutes, 1837-1936, VIII, 832.
- 5 For many years the Ministers continued to have titles reminiscent of the officials who preceded them—"Colonial Secretary", "Colonial Treasurer", "Commissioner of Public Works", etc. Today the title "Minister for", etc., is almost uniform, but some states retain a "Chief Secretary" with duties analogous to those of the United Kingdom Secretary for Home Affairs.
- 6 Assented to 1856. See ss. 32, 39 and note s. 33.
- 7 *Ibid.*, s. 17.

- 8 1855, c. XVII.
- 9 1889, s. 29.
- 10 N.S.W. 1855, ss. XVIII, XIX; Tasmania 1854, s. XXVII; Queensland at first operated under the N.S.W. Act, and later under Legislative Assembly Act, 1867, ss. 5 and 6. The references to "officers liable to retire on political grounds" were the most explicit recognitions of responsible government in most of these Acts.
- 11 Constitution, s. 44.
- 12 Officials in Parliament Act, 1945.
- 13 See May, *Parliamentary Practice* (15th ed.; London, 1950), p. 213.
- 14 Tasmania, Ministers of the Crown Act, 1948, s. 3. Others often share a Cabinet salary pool.
- 15 Where the office of Solicitor-General exists, it is a non-political civil service post.
- 16 All now are; see G. Sawyer, *Australian Government Today* (Melbourne, 1954).
- 17 Constitution Act Amendment Act, 1947, amending 1928 consolidating Act, s. 15.
- 18 Constitution Act, 1953, amending 1949 consolidating Act, s. 65.
- 19 Constitution Act Amendment Act, 1899, s. 43.
- 20 N.S.W. Constitution Act, 1902, reprinted as amended 1936, s. 38A; Victorian Constitution Act Amendment Act, 1928, s. 18. The N.S.W. section applies only to Assembly Ministers appearing in the Council, the Victorian both ways. One reason for the non-use of the sections is the anxiety of Ministers in the Council to exercise the responsibility of representing Ministers in the other House; they are afraid that appearance of Lower House Ministers would further sap the political virility of the Upper Houses, already regarded by many electors as "Houses of Dodder". Major measures usually originate in the Lower Houses; Money Bills are required to do so. However, the position of the Victorian Legislative Council is now a good deal more powerful, as a result of the introduction of universal suffrage for that House in 1950, and it is possible that the Victorian s. 18 will yet find use.
- 21 For the early history of the Cabinets, see Todd, *Parliamentary Government in the British Colonies* (London, 1894), chap. XVII; and *An Epitome of the Official History of N.S.W.* (Sydney, 1883), chap. X.
- 22 (1874) 4 Q.S.C. 96, 99.
- 23 *Ibid.*, at 100.
- 24 For a judicial recognition that Executive Council decisions are now purely formal, see *per* Barton A.C.J., in *Smith v. Crown* (1913) 17 C.L.R. 356 at 362-63.
- 25 (1877) 3 App. Cas. 115.
- 26 At 125.
- 27 At 130.
- 28 (1884) 14 V.L.R. 349.
- 29 [1891] A.C. 272.
- 30 Cf. *N.S.W. v. Bardolph* (1934) 52 C.L.R. 455, especially the judgment of Evatt J. on trial.
- 31 N.S.W. 15; Victoria 14; Queensland 11; South Australia 8; Western Australia 10; Tasmania 9. (1956. Changes are frequent.)
- 32 The office began informally about 1940, when Honorary Ministers volunteered for this duty. See *Parliamentary Salaries and Allowances Act*, 1954, s. 5(f).
- 33 For further details see J. D. B. Miller, *Australian Government and Politics* (London, 1954), pp. 137-39.
- 34 How is discussed hereafter.
- 35 Predecessor of the present Liberal Party.
- 36 The rule was adopted mainly to placate outside supporters of the Country Party who feared that in a coalition the party would be swallowed. Actually

the coalition Cabinets have always divided internally on cross-party lines and it was never necessary to invoke the voting rule; indeed, the exact formulation of the latter is now a matter of dispute. Fears lest the Country Party lose its identity are also shown by rules of the extra-parliamentary organisation requiring the consent of its Central Council—on which M.P.s are in a minority—to the parliamentary party entering coalitions.

- 37 For its origins see Dean McHenry in *Historical Studies—Australia and New Zealand*, VII (1955), 37. The idea was associated with moves for abandoning the British principle of party-based Ministries altogether, and instead having executives elected by Parliament—somewhat in the Swiss manner.
- 38 The question has not arisen in Queensland owing to Labour's long tenure of power there.
- 39 The Constitution authorises amendment of many of its details by ordinary legislation, but unless a particular section says otherwise, amendment requires a referendum at which the proposal must be accepted by a majority of the people as a whole, and a majority of the people in each of the four states: s. 28. This makes for extreme rigidity.
- 40 See Commonwealth of Australia Constitution Act, Clause 9, s. 62; Quick and Garran, *op. cit.*, p. 396; A. Inglis Clark, *Australian Constitutional Law* (Melbourne 1901), chap. 4; *Att.-Gen. v. De Keyser's Royal Hotel* [1920] A.C. 508.
- 41 The late Sir William Harrison Moore suggested that membership might be used as a Commonwealth title of honour, like membership of the Privy Council in the United Kingdom and Canada (*The Constitution of the Commonwealth of Australia* (Melbourne, 1902), p. 166); this has not happened.
- 42 See H. V. Evatt, *The King and his Dominion Governors* (London 1936). The Governor-General now has a personal staff capable of attending to matters of government policy, as well as to the matters of social and ceremonial interest which used to be their main concern.
- 43 S. 68.
- 44 The problem, unlikely to arise in practice, is whether Parliament could "regulate" the subject to the point of depriving the office of Commander-in-Chief of all significance.
- 45 Not such frequent opportunities, however, as Committee and certain Cabinet meetings mentioned later.
- 46 Since this article is not concerned with the general question of the powers of Governors, the above deals only with the one point of formal contact between Ministers and Governor. The Governors are also, like the Queen, entitled to be kept informed in a more personal way about the course of Ministerial and Cabinet policy. The Prime Minister sees the Governor-General and keeps him fully informed about Cabinet business. The Governor-General and his staff also see other Ministers from time to time and obtain information from them and their permanent heads. Owing to the range and complexity of the matters for decision, a Governor-General determined to exercise his functions with the knowledge of their import must be allowed a good deal of flexibility in his contacts with the executive government; the Prime Minister could not possibly spare the time personally to keep him fully informed. However, the Governor-General's main contacts are with the Prime Minister, and the situation involves no threat to Cabinet solidarity. What is said here about Governors-General can apply as much in the state sphere, but there is more likelihood of the Commonwealth post attracting men with the ability and ambition to play a constructive part in government.
- 47 S. 64.
- 48 Pursuant to s. 65.
- 49 This view seems to be held by the present Government; see *per* Mr. Holt,

- (*then*) Minister for Labour and a senior Cabinet member, in *C.P.D.* (1955) H. of R., I, 83.
- 50 See G. Sawyer, *Australian Constitutional Cases* (Sydney, 1948), pp. 302 *et seq.*, 408 *et seq.*
- 51 In the early stages of such an arrangement, personal difficulties might arise from the suggestion that an assistant Minister "shares the administration". It might also be difficult to get assistants to expose themselves to the risk of common informer proceedings under s. 46 of the Constitution, but that is a flexible provision; Parliament could repeal the provision for penalties and as suggested later could itself finally determine the constitutional question under s. 47.
- 52 Not to give them in Parliament; Ministers value too highly this form of publicity—especially since the introduction of radio broadcasting of debates—and probably questioners would make absence of a personal reply a matter for political criticism. If Ministers and Members would accept at least sharing of answers between Minister and assistant, the burden on the former would be appreciably eased.
- 53 *C.P.D.*, CCXVII, 717; CCXVIII, 618.
- 54 *Parliamentary Practice* (15th ed.; London, 1950), pp. 197 *et seq.*
- 55 H. of C., 1940-41, No. 120.
- 56 E.g. in its account of the 1945 Coatbridge and Springburn case, May describes the payments made as "a trivial amount for subsistence and travelling expenses". Actually, provision was made for two distinct payments, one for expenses, the other a fee for doing the work. There seems to be no case where payment of expenses, clearly and solely as such, has been treated as a "profit".
- 57 Many of the examples cited by Government speakers, however, were irrelevant; for example, the salaries paid to the Speaker, the Chairman of Committees, the Leader of the Opposition and the Whips. These are in no sense offices under the Crown. Somewhat more interesting were second war cases of Labour administrations appointing M.P.s to assist overburdened Ministers with certain types of public relations work, such as liaison with trade unions; these Members were given no official title, and were paid a small fixed fee per day when they were engaged on the work as an estimate of expenses. The fees were sufficient to make the posts attractive and so incur the ban of one main ground for the "office-of-profit" rule—namely preventing the Executive Government from having too great an influence with Members. But probably the posts could not be regarded as under the Crown.
- 58 The position of the Secretaries appointed in 1952 remained at this writing (1956) uncertain. On this writer's view, the resignation of the whole Ministry which occurred in January 1956—to facilitate Cabinet reconstruction—involved the resignation or dismissal of the Secretaries, whatever view one takes of their status.
- 59 There are no Honoraries in the present (1956) Cabinet (nor have any been appointed since).
- 60 The Senate has 60 members, the House of Representatives 124 (or 122 with full voting rights—123 since 1967).
- 61 J. A. Lyons (1932-39, United Australia Party) and John Curtin (1941-45, Labour).
- 62 Area about 3 million square miles, population just over 9 million (1956; 11½ million by 1967).
- 63 Population 33,000 (1967-95,000). It is about 180 miles from Sydney, 400 from Melbourne, 600 from Brisbane, 700 from Hobart and Adelaide and 2,100 from Perth.
- 64 At this writing (1956), only five Members—none of them Ministers—regularly

- use rail travel. Members have unlimited free travel on railways, and free air travel to and from Canberra as often as they please.
- 65 Even in Canberra itself, geography and accommodation problems impede executive co-ordination. Ministers and Members are crowded into a building designed for a smaller Parliament; most of the departmental buildings are too distant for Minister to have their offices in their Departments. A complete new legislative and administrative housing plan is needed, with underground trolley communication such as that of the Capitol in Washington, D.C., so that Ministers can be with their Departments and yet have rapid access to Parliament. (The American arrangements are to solve the different problems of legislators who belong to Congressional Committees, but they would be just as useful for Ministerial transport.)
- 66 *Public Administration* (Sydney), XIV (1955), 193.
- 67 For example, the Economic Committee frequently throws off a sub-group called the Works Committee, usually not chaired by the Prime Minister, to consider public works programmes.
- 68 E.g. the Department of War Organisation of Industry supplied the secretariat for the Production Executive.
- 69 Within twenty-four hours of the meeting; usually within twelve. The record of decisions is as brief and bald as possible. In all these arrangements, Sir Allen has profited from the experience of the United Kingdom Cabinet Office, to which some of his officers have been seconded.
- 70 Staff has remained constant since 1950. This has prevented experiments in organising "follow up" procedures to check the carrying out of policy, a point on which all the Australian Cabinets are weak. Sir Allen Brown has initiated a scheme for seconding senior administrators from other Departments to his Cabinet Secretariat for two-year periods, so as to provide himself with additional manpower and also create in all Departments a cadre of officers familiar with Cabinet procedure and trained in the most effective way of setting out submissions to Cabinet. This may also enable follow-up techniques to be developed.
- 71 Cabinet Ministers receive a higher salary. This form of differentiating between "Senior" and "Junior" Ministers, mainly on a basis of time in office, has existed since 1952. The classification is in the discretion of the Prime Minister.
- 72 Circulation and filing of Cabinet papers present difficulties, because Australia has inherited the United Kingdom principle that the records of one Cabinet should not be available to the next. Whatever justification this rule had in the past, it should now be abandoned. The main business of Cabinet is to carry on and co-ordinate policies which are Departmental in origin, and it is in the public interest that the fullest records should be kept of those policies, and should be available to successive governments. So far as secret party political considerations enter, the claim for concealment is usually not reputable and such considerations of tactics or "low cunning" as might be canvassed should be put forward orally in Cabinet and not recorded at all. In fact, Departmental files inevitably contain a good deal of the material leading to Cabinet submissions, often the submissions themselves, and often a note of Cabinet decision. The Secretariat has not adopted the fiction of the United Kingdom Cabinet Office, by which Departmental submissions, often left on the files, are called "drafts" and the printed Cabinet submissions, usually virtually identical with the Departmental record, are alone given complete protection from subsequent Ministerial inquiry.
- 73 *C.P.D.* (1956), H. of R., I, 39 *et seq.*, 57 *et seq.*; Sen., II, 68 *et seq.*
- 74 The views of senior Labour leaders deserve great respect, since they had intensive experience of war administration under maximum pressure. They were joined by some Government supporters in urging that an attempt to

differentiate between policy and detailed administration at Ministerial level is a mistake; the best policy comes from bringing together *all* the heads of administration. But although Labour governed with a smaller Ministry, it did so at the cost of putting a grievous strain on particular Ministers. If more Ministers means keeping the nation's leaders alive and fit longer, the increase is justified; perhaps, however, the distribution of responsibility is more significant in this connection than the number of Ministers.

- 75 Doubts about the scheme rest on three main grounds. First, the somewhat similar Churchill scheme for "Overlord" Ministers in the United Kingdom is said to have broken down—perhaps mainly because it was poorly designed? Secondly, it is doubted whether all junior Ministers would play the game; being in control of the detailed work, they could disregard or at least subtly distort the policy directives of their senior Minister, and of Cabinet. However, difficulties of the latter nature also arise from the differentiation between Cabinet and Ministry. Third, Departments may not always fall into the same groupings for all purposes; for example, Territories is in some respects a "Public Works" Department, and in others related to "External Policy" (with P.M.'s and External Affairs). Hence the Wentworth scheme might produce the equivalent of a rather rigid sort of Committee system, instead of the present very flexible one. Even under the Wentworth scheme, Cabinet would need to include Ministers for reasons other than their relation to Departments—for example, the Senate Leader and the Vice-President.
- 76 Under the Senate system of one-half the membership retiring every three years, new Senators elected the previous December take their seats on July 1. The rigid constitutional voting rule in the Senate is that the President has a deliberative but no casting vote, and when the house is equally divided the question passes in the negative (Constitution, s. 23). The remedy for persistent Senate obstruction of Government legislation is a dissolution of both Houses under s. 57 of the Constitution.
- 77 Jennings' *Cabinet Government* (2nd ed.; Cambridge, 1951), pp. 222 *et seq.*; Keith's *British Cabinet System*, ed. Gibbs (London, 1952), pp. 97 *et seq.* These authors say nothing explicitly as to the freedom of junior Ministers to criticise Cabinet policy, but presumably they must be granted the freedom of Cabinet Ministers plus something.
- 78 It might be necessary to distinguish between decisions finally taken by the Committee and those finally taken by Cabinet after a Committee report.
- 79 C.P.D. (1956).

5. THE FEDERALIZATION OF THE AUSTRALIAN CABINET, 1901-39 by K. A. MacKirdy, p. 76

- 1 National Australasian Convention, *Official Record of the Proceedings and Debates* (Sydney, 1891), p. 134.
- 2 *Ibid.*, p. 135.
- 3 *Ibid.*, p. 136. Cf.: "And the plain truth is that the federal system is simply inconsistent with the first principles which must prevail in a properly organized British responsible central government." C. Dunkin in Province of Canada, *Confederation Debates* (Quebec, 1865), p. 503.
- 4 The academic commentary includes: N. McL. Rogers, "Federal Influences on the Canadian Constitution", *Canadian Bar Review*, XI (1933), and "Evolution and Reform of the Canadian Cabinet", *ibid.*, and R. MacG. Dawson, "The Cabinet—Position and Personnel", *Canadian Journal of Economics and Political Science*, XII (1946).

- 5 The Premiers were Sir William Lyne, New South Wales, Sir George Turner, Victoria, and Sir John Forrest, Western Australia. The former premiers were C. C. Kingston, South Australia, and James Dickson, Queensland. Lyne, as Premier of the senior colony, was the first person whom Lord Hopetoun, the newly appointed Governor-General, commissioned to attempt to form a government. As Lyne had been a consistent opponent of the federation scheme, the choice was singularly inappropriate, and after he reported his failure, the Governor-General turned to Barton, the leading advocate of federation and "Leader of the Convention" in the assemblies of 1897-98. The three members of Barton's cabinet who were not premiers were himself, R. E. O'Connor from New South Wales, and Alfred Deakin from Victoria.
- 6 *Examiner* (Launceston), 31 December 1900. According to section 65 of the Constitution, "Until Parliament otherwise provides, the Ministers of State shall not exceed seven in number . . ." To the seven portfolios thus authorized, Barton had added the office of Vice-President of the Executive Council.
- 7 Forrest was Premier of Western Australia, 1890-1900; Postmaster-General, January-February 1901; Minister for Defence, 1901-3; Minister for Home Affairs, 1903-4; Treasurer, 1905-7, 1909-10, 1913-14, 1917-18. Prime Minister W. M. Hughes relieved himself of the dangerously ambitious colleague by having him created Baron Forrest of Bunbury. He died on his way to London to take his seat in the House of Lords. Pearce was elected to the Senate in 1901 as a Labor supporter (he left the Labor Party with Hughes in 1916). He was Minister for Defence, 1908-9, 1910-13, 1914-21; Minister for Home and Territories, 1921-26; Vice-President of the Executive Council (while remaining leader of the Government in the Senate), 1926-29; Minister for Defence 1932-34; Minister for External Affairs (with control of external territories), 1934-37. He was defeated in the general election of 1937 and retired from active political life.
- 8 Cf. first Macdonald administration in Great Britain, 1924. Higgins, a Liberal member of the Legislative Assembly of Victoria, 1894-1900, and representative for Victoria in the federal conventions, 1897-98, entered the House of Representatives, 1901-6, generally following an independent Liberal policy. He was Attorney General, 1904; Justice of the High Court of Australia, 1906-29; Chairman of the Commonwealth Court of Conciliation and Arbitration, 1907-21.
- 9 "Selected" was the term used in the resolution as originally drafted. The wording, though not its intent, was softened by amendment, Dean McHenry, "Origins of Caucus Selection of Cabinet", *Historical Studies—Australia and New Zealand*, VII (1955).
- 10 *Argus* (Melbourne), 13 November 1908 noted: "No regard has been paid to state representation."
- 11 *Advertiser* (Adelaide), 13 November 1908.
- 12 A member of the Liberal Opposition asked the state Premier, "Will the Government make a remonstrance against the injustice done to South Australia?" and "Do you not think that this State should have one representative in the Federal Government?" The Premier made the type of non-committal reply required on such occasions. *Advertiser* (Adelaide), 28 October 1915.
- 13 *Courier* (Brisbane), 28 October 1915.
- 14 *West Australian* (Perth), 18 August 1904. The paper, a Government supporter, deprecated the suggestion editorially in a manner which suggested that it was a tender point.
- 15 "In the allocation of portfolios there has been a manifest desire to secure the widest representation compatible with strength" (editorial *Courier* (Brisbane), 3 June 1909). The same paper's Melbourne correspondent explained that the choice of the Queenslander, L. Groom, as Minister for External Affairs, and of the South Australian, M. Glynn, as Attorney General, was

- dictated by federal considerations, since the leading alternative candidates for both posts were Victorians.
- 16 There was no Tasmanian in the Bruce-Page cabinet immediately following the reorganization of February 1928, but J. E. Ogden, a relatively recent convert from Labor, entered as honorary minister on 29 November 1928. Tasmania again lacked cabinet representation from 7 April 1939, when Joseph A. Lyons died, to 7 October 1942.
 - 17 *Examiner* (Launceston), 23 October 1929.
 - 18 No Western Australian appeared on the list of cabinet appointments announced by Prime Minister Menzies on 19 December 1949. The pro-Government *West Australian* news story included the reassuring, but unfounded, suggestion that an assistant ministership would be granted to a newly elected member from the State.
 - 19 In 1939 the Canadian Parliament contained 341 members (245 in the House of Commons, 96 in the Senate); the Australian Parliament 111 (75 in the House of Representatives, including one from the Northern Territory with limited voting rights, and 36 in the Senate).
 - 20 The political implications of this situation are discussed in K. A. MacKirdy, "Geography and Federalism in Australia and Canada", *Australian Geographer*, VI (1953).
 - 21 Irvine: Premier of Victoria, 1902-4; elected to House of Representatives, 1906; Attorney General, 1913-14; Minister for Works and Railways, 1917-18; Treasurer, 1918-20; Acting Prime Minister, 1918-19. Theodore: Premier of Queensland, 1920-25; entered House of Representatives by manufacture by-election, 1927; deputy leader of the Opposition, 1929; Treasurer, 1929-30, and again in 1931. Lyons: Premier of Tasmania, 1923-28; elected to House of Representatives, 1929; Postmaster-General, 1929-31; Prime Minister, 1931-39.
 - 22 The Launceston *Examiner* admitted in its editorial (12 November 1925) that Crouch's experience in the Commonwealth Parliament as member for Corio, and his military career, were respectable qualifications, but then asked "... but why should he be in Tasmania aspiring for federal honours? Tasmania should be represented by Tasmanians."
 - 23 "The Transaustralian Railway Sleepers: How Tasmania was Treated", 10 May 1913. O'Malley was born in Canada and publicly regretted this fact on all possible occasions, claiming that it deprived him of the opportunity of becoming President of the United States. Rejecting any lesser honour that the republic might offer, he emigrated to the other land of opportunity. He served in the South Australian assembly from 1896 to 1899. From 1901 to 1917 he sat in the House of Representatives for a Tasmanian constituency.
 - 24 "The Federal Ministry", 27 April 1904.
 - 25 "New Federal Ministry", 3 June 1909. Cf. the Hobart *Mercury's* attack (21 November 1922) on a former cabinet minister who was guilty of being a "Big Australian" and taking a national view of an issue: "He put office first, or Mr. Hughes first, or Australia first. He did not put Tasmania first."
 - 26 Melbourne served as the temporary capital of the Commonwealth until a permanent site could be decided upon and facilities made available. Although the Commonwealth Parliament had been meeting in Canberra since 1927 the process of moving government offices to the new capital has not yet been completed.
 - 27 J. W. Hackett to Walter James, 9 May 1907, "The James Papers—Letters on Federation", *Australian Quarterly*, XXI (1949).
 - 28 (Since the above lines were written the experiment was tried. A special meeting of the Canadian Cabinet was held in Quebec City on 28 December 1961 in an effort to placate restless Quebecois by announcing for the Citadel that an additional French Canadian was joining the Cabinet.)

- 29 *Report of the Joint Committee of the House of Lords and the House of Commons Appointed to Consider the Petition of the State of Western Australia*, H.C. LXXXVIII (1935).
- 30 *West Australian* (Perth), 24 June 1935.
- 31 *Sydney Morning Herald*, 4 February 1939.
- 32 *C.P.D.*, H. of R., IX, 40.
- 33 Some changes from the original article have been incorporated into the present text. The author particularly wishes to acknowledge the helpful suggestions of Professor J. A. La Nauze.

6. THE POLITICAL ÉLITE IN AUSTRALIA by S. Encel, p. 86

- 1 For example, W. L. Guttsman, "The Changing Social Structure of the British Political Elite", *British Journal of Sociology*, II (1951); D. R. Matthews, *The Social Background of Political Decision-Makers* (New York, 1954).
- 2 This section was based on the author's (S. Encel) *Cabinet Government in Australia*, published by the Melbourne University Press, and the author wishes to acknowledge the Melbourne University Press's permission to include material from it.
- 3 W. K. Hancock, *Australia* (Sydney, 1945), pp. 61 *et seq.*
- 4 Quoted by Albert Métin, *Le Socialisme sans doctrines; législation ouvrière en Australie et Nouvelle Zélande* (Paris, 1901), p. 229.
- 5 *Socialism, the Reid-Holman Debate* (Sydney, 1905), pp. 62-63.
- 6 Quoted by D. E. McHenry, "The Origins of Caucus Selection of Cabinet", *Historical Studies—Australia and New Zealand*, VII (1955).
- 7 D. E. McHenry, "Caucus over Cabinet", *University Studies in History and Economics*, II (1955).
- 8 *Ibid.*
- 9 The accepted usage is "Premier" in the states and "Prime Minister" in the federal sphere.
- 10 Australian Public Opinion Polls, *Bulletin*, June 1954.
- 11 *As It Happened* (London, 1954), p. 158.
- 12 George Black, *History of the N.S.W. Labour Party*, Part 6, p. 27.
- 13 V. G. Childe, *How Labour Governs* (London, 1923), p. 23.
- 14 J. T. Lang, *I Remember* (Sydney, 1956), p. 167.
- 15 *The Worker* (Sydney), 9 September 1918.
- 16 *Ibid.*, 1914, quoted by H. V. Evatt, *Australian Labour Leader* (Sydney, 1940), p. 340.
- 17 J. D. B. Miller, "Party Discipline in Australia", chap. 22.
- 18 "The Organization of the Australian Labour Party 1916-1941" (Ph.D. thesis, University of Melbourne, 1954).
- 19 For example, Tom Truman, *Catholic Action and Politics* (Melbourne, 1959); I. F. Wilson, *The Election in Yarra* (1959: mimeo).
- 20 At a special party conference in Victoria in 1955.
- 21 L. F. Crisp and S. P. Bennett, *A.L.P. Federal Personnel 1901-1954* (1954: mimeo).
- 22 A sharper contrast could hardly be imagined. Scullin was not only a devout Catholic but a puritanical one, and he had started his political career as an A.W.U. organizer. Ironically, it was Curtin who succeeded him as leader of the parliamentary party in 1935, with strong A.W.U. backing.
- 23 *C.P.D.*, LII, 47-63.
- 24 *Ibid.*, pp. 18-19.

- 25 L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (2nd ed.; Melbourne, 1954), gives examples in his fourth chapter.
- 26 Sir Frederick Eggleston, *Reflections of an Australian Liberal* (Melbourne, 1952), pp. 135-36.
- 27 *Sydney Morning Herald*, 1 January 1932.
- 28 F. C. Green, in a series of articles in the *Sun-Herald*, in 1959.
- 29 Allowance has been made in this table for the increase in size of the Commonwealth parliament in 1949 from 110 to 181 members. Where Ministers changed their party, they are allotted to the party in which they *originally* held office.
- 30 L. F. Crisp, *The Australian Federal Labour Party 1901-1951* (London, 1955), appendix 7.

PART III, PARLIAMENT

INTRODUCTION, p. 107

- 1 S. Encel, *Cabinet Government in Australia* (Melbourne, 1962).

7. AUSTRALIA'S COMMONWEALTH PARLIAMENT AND THE "WESTMINSTER MODEL" by G. S. Reid, p. 109

- 1 Anthony Trollope, *Australia and New Zealand* (Melbourne, 1874), p. 100.
- 2 *Ibid.*, p. 514.
- 3 *C.P.D.*, I, 782.
- 4 Rt. Hon. Harold Holt, M.P., *C.P.D.*, H. of R., XIV, 340.
- 5 J. Quick and R. R. Garran, *The Annotated Constitution of the Australian Commonwealth* (Sydney, 1901), p. 681.
- 6 Hon. E. A. Roberts, M.P. (Labor, Adelaide 1908-13), *C.P.D.*, LXXII, 3320.
- 7 *Report from the Senate Select Committee on Standing Committees*, Paper No. S. 1, Session 1929-30, 13, Q. 180.
- 8 *Ninth Progress Report of the Joint Committee on War Expenditure—Control of National Expenditure*, Parl. paper No. 73, Session 1945-46, 3.
- 9 Walter Bagehot, *The English Constitution* (Fontana ed.; London, 1963), p. 136.
- 10 *Op. cit.*, p. 48.
- 11 Lord Crompton, "Parliament and Democracy" in Crompton (ed.), *Parliament—A Survey* (London, 1952), p. 29.
- 12 J. D. B. Miller, *Australian Government and Politics* (London, 1954), p. 91.
- 13 Standing Order (1963), No. 218A.
- 14 Sir Edward Fellowes, "General Memorandum on Procedural Reform", 2, in *Report from the Select Committee on Procedure*, H.C. 92-1 (1958-59).
- 15 *C.P.D.*, LXXII, 4244.
- 16 F. C. Green, "Changing Relations between Parliament and the Executive", *Public Administration* (Sydney), XIII (1954).

8. THE AUSTRALIAN SENATE AS A HOUSE OF REVIEW: ANOTHER LOOK by Anthony Fusaro, p. 123

- 1 For a brief discussion of the capital dispute, see Sir John Kirwan, "The First Commonwealth Parliament", *Early Days*, VIII n.s. (1946), 6-16; and Don Whittington, *The House Will Divide* (Melbourne, 1954), p. 1.
- 2 J. D. B. Miller, "Parliamentary Government in Australia", *Parliamentary Affairs*, II (1949).
- 3 See "Australia: The General Election and the Referenda", *Round Table*, II (1912-13), 725.
- 4 For instance, see various articles in *Round Table* 1913-14, and J. R. Odgers, *Australian Senate Practice* (2nd ed.; Canberra, 1959), pp. 9-12.
- 5 See "Australia: The Turmoil of Politics", *Round Table*, IV (1913-14), 342.
- 6 Taken from a statement by the President of the Senate to the Governor-General, 17 June 1914, reprinted in Odgers, *op. cit.*, p. 11.
- 7 For a brief coverage of the 1914 election, see "Australia", *Round Table*, V (1914-15), 201.
- 8 A. F. Davies, *Australian Democracy* (Melbourne, 1958), p. 47.
- 9 United Australia Party, "Work of the Senate Not Hampering Legislation, 131 Bills Passed", *Speaker's Notes, Commonwealth Election Campaign* (1931), No. 1, *passim*.
- 10 C.P.D., CXXV, 3966.
- 11 C.P.D., CXXVIII, 1221.
- 12 C.P.D., CXXIX, 1615 ff.
- 13 C.P.D., CXXVI, 5298.
- 14 C.P.D., CXXVIII, 880.
- 15 See L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (Melbourne, 1949), p. 81.
- 16 "Australia: The Federal Chronicle", *Round Table*, XXI (1930), 181.
- 17 C.P.D., CLXXIV, 2250-69.
- 18 C.P.D., CLXXIV, 2501-53.
- 19 *Sydney Morning Herald*, 1 January 1950.
- 20 For a summary of the issues before the Senate during the session, see "Australia: Politics in Deadlock", *Round Table*, XL (1950), 377-78.
- 21 *Sydney Morning Herald*, 5 April 1950.
- 22 *Ibid.*, 2 May 1950.
- 23 *Ibid.*, 27 September 1950.
- 24 *Ibid.*, 28 September 1950.
- 25 *Ibid.*, 17 October 1950.
- 26 See "Australia: Labour and Communism", *Round Table*, XLI (1951), 180.
- 27 *Sydney Morning Herald*, 26 May 1950.
- 28 *Ibid.*, and C.P.D., CCVII, 2955.
- 29 C.P.D., CCVII, 3139.
- 30 C.P.D., CCVII, 3188.
- 31 C.P.D., CCVII, 3027.
- 32 *Sydney Morning Herald*, 27 May 1950.
- 33 *Ibid.*, 17 October 1950.
- 34 *Ibid.*, 1 January 1950.
- 35 Australian Public Opinion Polls, *Bulletin*, May-June 1950.
- 36 *Ibid.*, June-July 1950.
- 37 *Ibid.*, July-August 1950.
- 38 *Ibid.*
- 39 *Ibid.*, April-May-June 1951.
- 40 Recapitulated in *ibid.*, June-July 1957.
- 41 C.P.D., CLXI, 753.

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- 42 J. R. Odgers, "The Senate—Case for the Defence", *Australian Quarterly*, XX (1948), No. 4, 88-91; and *Australian Senate Practice* (2nd ed.; Melbourne, 1959), pp. 167-72.
- 43 *C.P.D.*, CCXVII, 1221.
- 44 *C.P.D.*, Sen., XVI, 1929.
- 45 *C.P.D.*, H. of R., XXV, 3319 ff.
- 46 *Ibid.*
- 47 *C.P.D.*, Sen., XVIII, 1584.
- 48 *C.P.D.*, Sen., XVIII, 2043.
- 49 *Sydney Morning Herald*, 7 December 1960.
- 50 *C.P.D.*, Sen., XVIII, 2154.
- 51 *C.P.D.*, Sen., XVIII, 2140-41.
- 52 *C.P.D.*, Sen., VII, 615.
- 53 *Sydney Morning Herald*, 10 May 1956.
- 54 *C.P.D.*, Sen., X, 568.
- 55 *Sydney Morning Herald*, 4 May 1957.
- 56 *C.P.D.*, Sen., X, 955.
- 57 *C.P.D.*, Sen., XVIII, 877.

10. THE CHOICE OF THE SPEAKER IN AUSTRALIAN PARLIAMENTS by Geoffrey Bolton, p. 155

- 1 P. Laundy, "The Speaker of the House of Commons", *Parliamentary Affairs*, XIV (1960-61).
- 2 *C.P.D.*, H. of R., XXIV, 732-34.
- 3 Western Australia retained Crown Colony status until 1890.
- 4 Thus in 1899 Queensland Labor members supported a successful bid to supplant A. S. Cowley, whose harsh and peremptory manner as Speaker had antagonized many of his own (non-Labour) party, and whose advocacy of coloured labour in the sugar industry was disliked by the trade unions.
- 5 There were then three parties in Victoria: the Conservatives and Liberals (who united in 1909) and Labour.
- 6 *V.P.D.*, CV, 5.
- 7 H. V. Evatt, *Australian Labour Leader* (Sydney, 1940), pp. 287-95; *N.S.W.P.D.*, 2nd ser., XLII, 3-201.
- 8 Quoted by Sir Ivor Jennings, *Parliament* (Cambridge, 1948), p. 66.

PART IV, ELECTIONS

INTRODUCTION, p. 173

- 1 Henry Mayer and Joan Rydon, *The Gwydir By-election 1953* (Canberra, 1954).
- 2 D. W. Rawson and Susan M. Holtzinger, *Politics in Eden-Monaro* (London, 1958).
- 3 D. Carboch, "The Fall of the Bruce-Page Government", in Aaron Wildavsky and Dagmar Carboch, *Studies in Australian Politics* (Melbourne, 1958).
- 4 D. W. Rawson, *Australia Votes* (Canberra, 1961).
- 5 Creighton Burns, *Parties and People* (Melbourne, 1961).

12. ELECTORAL METHODS AND THE AUSTRALIAN PARTY SYSTEM, 1910-1951 by Joan Rydon, p. 175

- 1 *Party Government* (New York, 1942), p. 69.
- 2 *American Political Science Review*, XLVII (1953).
- 3 "The Influence of Electoral Systems on Political Life", *International Social Science Bulletin*, III (1951), 314.
- 4 R. S. Parker, "The People and the Constitution" in G. Sawyer *et al.*, *Federalism in Australia* (Melbourne, 1949).
- 5 L. F. Crisp, "Compulsory Voting in Australia", *Parliamentary Affairs*, VI (1953).
- 6 Originally the quota for seats was lower in both Tasmania and Western Australia than in the other States. As the population of the smaller States has increased the discrepancy has been disappearing, particularly since 1949 when the increase in the membership of the House of Representatives from 74 to 123 meant a considerable decrease in the quotas for all seats. Western Australia then became entitled to eight seats; Tasmania has still only five, but the quota for these is only slightly lower than those in the mainland States.
- 7 In Victoria, the inequality has now been removed. See A. Davies, "Victorian Government and Politics" in G. Leeper (ed.), *Introducing Victoria* (Melbourne, 1955), pp. 296-99. In South Australia and Queensland, gerrymandering persists; see R. Anderson and D. Dunstan, "Gerrymandering in Two States", *Voice*, V (1956).
- 8 R. H. Barrett, *Responsible Party Politics in Australia* (Ph.D. thesis, University of Melbourne, 1954), chap. 6.
- 9 There have been attempts to find a definite relation between votes and seats won in a two-party system; e.g. The Cube Law which states that if total votes polled by the parties are in the ratio $A : B$ they will win seats in the ratio $A^3 : B^3$. For a discussion of this and other suggested relations between seats and votes in British elections see D. E. Butler, *The Electoral System in Britain 1918-1951* (Oxford, 1953).
- 10 Barrett, *op. cit.*
- 11 Mr. J. McEwen stated in 1937 that his party "never secured and under the present system of selection never could secure, a single representative in the Upper House of this Parliament without the co-operation of another political party". *C.P.D.*, CLIII, 352.
- 12 So called because each party would tend to nominate more candidates than they would expect to be elected, whereupon these candidates would campaign against one another to secure the coveted seat.
- 13 "Contingent voting" can be described as preferential voting with the recording of second, third, etc., preferences optional.
- 14 See *Report of the Royal Commission on the Constitution* (1929), 287.
- 15 It would be interesting, however, to calculate the percentage of the total vote for each party not merely on first preference votes but on the final counting in each electorate—in other words where preferences were distributed they would be accredited as votes for the party to which they were finally allotted rather than to the party for which they were first preferences.
- 16 There has only been one contest clearly decided on Communist preferences. In 1951 79.89 per cent of a Communist candidate's preferences enabled the A.L.P. candidate to win a seat from a Liberal who topped the first count.
- 17 For a case study of multiple endorsement and a contest between three parties in a rural electorate see Henry Mayer and Joan Rydon, *The Gwydir By-Election 1953* (Canberra, 1954).
- 18 Duverger, *op. cit.*, especially pp. 322-24.

13. THE RELATION OF VOTES TO SEATS IN ELECTIONS FOR THE AUSTRALIAN HOUSE OF REPRESENTATIVES, 1949-1954 by Joan Rydon, p. 192

- 1 Particularly in the work of D. E. Butler in the statistical appendices to the Nuffield studies of British elections: R. B. McCallum and A. Readman, *The British General Election of 1945* (Oxford, 1947); H. G. Nicholas, *The British General Election of 1950* (London, 1951); D. E. Butler, *The British General Election of 1951* (London, 1952) and *The British General Election of 1955* (London, 1955); and R. H. Brookes, "Seats and Votes in New Zealand", *Political Science*, V (1953).
- 2 "Preferential voting" is the term generally used in Australia to describe what is elsewhere often called the "alternative vote". A more satisfactory term would be "preferential voting with eliminative counting" as suggested by J. F. S. Ross, *Elections and Electors* (London, 1955), pp. 16-17.
- 3 On these particular features of Australian elections see Henry Mayer and Joan Rydon, *The Gwydir By-Election 1953* (Canberra, 1954); Joan Rydon, "Electoral Methods and the Australian Party System, 1910-1951", pp. 175-91 of this book; L. C. Webb, "The Australian Party System", pp. 321-43 of this book; and the article by S. R. Davies in *The Australian Political Party System* (Sydney, 1954).
- 4 The 1954 election was unique in that there was no concurrent election for the Senate, but this is not important here since we are considering voting in elections for the Lower House only. (The 1963 and 1966 elections subsequently were for the House of Representatives only. *Ed.*)
- 5 Throughout the paper "votes" are taken to mean "formal votes". The percentage of informal votes does not vary greatly, usually being about 2 per cent of all votes cast. Moreover, figures for the two seats (Australian Capital Territory and Northern Territory) whose members did not have full voting rights are excluded, so the House of Representatives is regarded as having 121 seats.
- 6 The 1949 figure includes 0.71 Lang Labour.
- 7 These allowances have sometimes involved the elimination of a number of Communist and independent candidates on the grounds of probable distortion from the lack of choice in major party candidates, as mentioned earlier. In calculating these adjustments the percentage of enrolled electors usually voting in each of the electorates concerned was also taken into consideration. One of the difficulties with these adjustments is that they assume that "swings" would have been equal in seats (in the same state) with similar voting patterns. There are also other difficulties, e.g. in Victoria, in 1954, two of the three Country Party seats were uncontested, so that there was little to work on in making the adjustments. Adjustments of this nature are necessarily arbitrary, but it seems that no satisfactory comparison of election figures would be possible without them.
- 8 In 1949 Canning was contested by four candidates: A.L.P., Liberal, Country Party, and Independent. Both the A.L.P. and the Independent were eliminated when preferences were counted, and the final contest was thus between the Liberal and the Country Party. Since we are primarily interested in Labour versus non-Labour the final figures have not been used in this case. Instead the figures have been taken after the elimination of the Independent when there were still three candidates in the field.
- 9 Again these figures are necessarily arbitrary and there would doubtless be disagreement as to how such an allocation should be made and as to how some candidates should be classified. The method of allocation used in the Statistical Notes to chap. 12 in L. C. Webb, *Communism and Democracy in Australia* (Canberra, 1954), is somewhat different from that used here.

- 10 It seems that any reasonable allowance for seats uncontested, or not contested by a major party would show that Labour votes exceeded those cast for the Government in 1954, e.g. rounded analyses of the figures issued by the research section of the Liberal Party credit Labour with 50.5 per cent of the total (including informal) votes.
- 11 See Rydon, pp. 175-91 of this book. In earlier elections the operation of preferential voting at times contributed substantially to the favourable position of the Country Party, but this has not been the case in the three elections considered here.
- 12 For perhaps the earliest formulation of the cube rule see testimony of Rt. Hon. J. Parker Smith in "Minutes of Evidence Before the Royal Commission on Systems of Election", Cd. 5352 (1910), pp. 77-81. There has been considerable discussion of the rule in recent years, e.g. see Butler, *op. cit.*; Brookes, *op. cit.*; Samuel J. Eldersveld, "Polling Results and Prediction" in James K. Pollock *et al.*, *British Election Studies 1950* (Ann Arbor, 1951); M. G. Kendall and A. Stuart, "The Law of the Cubic Proportion in Election Results", *British Journal of Sociology*, I (1950); *Economist*, 7 January 1950, pp. 5-7, and 28 January 1950, pp. 194-95.
- 13 Dean E. McHenry, "The Australian General Election of 1954", *Australian Quarterly*, XXVII (1955), 1, 14-23.
- 14 This has been done by calculating from the cube rule the percentage of votes necessary to win 61 seats plus the number in the difference column, i.e. for 1949 68-9 seats and so on.
- 15 It will be noted that in applying Butler's method to predict election results, it is usually necessary to assume that "swings" will be equal only in fairly close seats—not in all seats. This lessens a serious objection to the method, namely that it seems more reasonable to expect "swings" in each electorate to be related to the previous voting in that particular electorate. If, for example, there is an increase from 50 to 51 in the Labour percentage of the overall vote and a corresponding decrease from 50 to 49 in the non-Labour figure, there would seem to be no reason why Labour should gain 1 per cent of the votes in each electorate. Rather, if one assumes that one-fiftieth, or 2 per cent, of the total previous non-Labour voters have switched to Labour, one might more reasonably assume that 2 per cent of such voters *in each electorate* would have switched sides. Thus the change to Labour would be greater in a seat where the voters had previously divided 20 per cent Labour and 80 per cent non-Labour than in one where the figures had been 80 per cent Labour and 20 per cent non-Labour. On the basis of this assumption, we could again calculate the number of seats which would change hands for each change in over-all voting. However, this makes very little difference to the results obtained by the Butler method, although the differences increase as the assumed A.L.P. vote moves further from the 50 per cent level. Thus it would appear that the two concepts of the "swing" will produce divergent results only in the case of large changes in the overall vote between elections—considerably larger than those which occurred in the three elections dealt with here.
- 16 Butler based his calculations on voting figures expressed as percentages of Labour plus Conservative votes. Under preferential voting, however, votes for minor candidates might be the deciding factor in close seats; hence we have used electorate results adjusted as for Table 2.
- 17 The figures in *italics* represent the actual percentage of votes polled and seats won by Labour in the three elections. Those figures in heavy type indicate the points at which a majority for Labour would first emerge; a majority being 61 or more seats. It has been assumed that all seats would be won by the A.L.P. or the Liberal-Country Party coalition.
- 18 Compare Brookes' conclusions, *op. cit.*

- 19 Butler found that factor (a) caused "over-representation" of the British Labour Party in 1945, while (b) has caused its "under-representation" in subsequent elections.
- 20 Since compulsory voting in Australia allows one, to all intents and purposes, to ignore abstentions, and because informal votes are insignificant, the total of formal votes has been taken to represent the size of the electorate.
- 21 For example, compare the figures already given with those for the average size of electorates *always won* by the Country Party: 1949 35.7, 1951 36.1, and 1954 38.0; or with those *contested* by the Country Party: 1949 35.1, 1951 35.6, 1954 37.4, the size in each case being in thousands of formal votes cast. Those seats in which Country Party candidates were excluded when preferences were counted have not been included.
- 22 The figures are based on the final distribution of all votes to either Labour or Non-Labour, as in Table 2.
- 23 In all three elections there were only 22 seats in which Country Party candidates were in the final count, but of these they won 19 in 1949 and 17 in each of the following elections.
- 24 Compare K. J. Scott, "Gerrymandering for Democracy", *Political Science*, VII (1955).

14. THE CHOICE OF VOTING METHODS IN FEDERAL POLITICS, 1902-1918 by B. D. Graham, p. 202

- 1 This study pursues lines of enquiry which were first investigated by L. C. Webb, "The Australian Party System", pp. 321-43 of this book; and by Joan Rydon, "Electoral Methods and the Australian Party System", pp. 175-91 of this book.
- 2 The myth took shape within Country Party tradition and was set out in some detail by J. P. Abbott, "Contemporary Party Policies: The Country Party" in A. Campbell Garnett, *Freedom and Planning in Australia* (Madison, 1949), p. 297. Abbott's account has been accepted by other writers. See for example, Louise Overacker, *The Australian Party System* (New Haven, 1952), pp. 221-22.
- 3 The terms used in this article are taken from Appendix 1 of Enid Lakeman and James D. Lambert, *Voting in Democracies* (London, 1955), pp. 234-39, except that "simple-majority" has been preferred to "relative-majority" in describing the first-past-the-post voting system. A distinction has been made between *optional preferential voting*, in which an elector is not obliged to indicate his preferences for all candidates offering, and *compulsory preferential voting*, in which he is obliged to do so.
- 4 See W. A. Townsley, "The Electoral System and the Constituencies" in F. C. Green (ed.), *Tasmania, A Century of Responsible Government, 1856-1956* (Hobart, 1956), pp. 73-74; J. G. Davies and R. M. Johnston, "Hare-Clark System of Voting", *C.P.P.*, 1901-2, II, 193-200.
- 5 "Dualists" is the term used here to describe those men who recognised the plurality of political interests but who nevertheless wished to constrain all groups to remain within the two-party framework. They must be distinguished from the conservatives, who tended to think of the two-party system as the usual state of affairs produced by the unhampered working of natural laws in society.
- 6 Miss C. H. Spence, *Effective Voting: Australia's Opportunity, An Explanation of the Hare System of Representation* (Adelaide, 1898). Cf. John Stuart Mill, *On Liberty and Considerations on Representative Government* (R. B. McCallum ed.; Oxford, 1946), pp. 172-73.

- 7 The conservative case was argued during the debate on the 1902 Electoral Bill by Sir Josiah Symon (S.A.), *C.P.D.*, VIII, 10405-31. Cf. "Speech to the Electors of Bristol, 3 November 1774", *The Works of the Right Honourable Edmund Burke* (London, 1887) II, 96.
- 8 *Argus* (Melbourne), 8 March 1902.
- 9 T. R. and H. P. C. Ashworth, *Proportional Representation Applied to Party Government, A New Electoral System* (Melbourne, 1900), p. 13.
- 10 *Ibid.*, p. 83.
- 11 For example, Sir Edmund Barton, *Official Record of the Debates of the Australasian Federal Convention, Third Session, Melbourne, 20th January to 17th March, 1898*, II, 2446.
- 12 See letter from E. Pollet, Consul General for Belgium, to Sir Edmund Barton, 10 June 1901, held at the Commonwealth Archives Office, Canberra (External Affairs, File no. 01/1884).
- 13 "Report of Conference re Federal Elections Bill", *C.P.P.*, 1901-2, II, 201-7. For a reference to Lyne's personal views see *Advertiser* (Adelaide), 17 January 1902.
- 14 Nanson's views are set out in detail in his *The Real Value of a Vote and How to Get It at the Coming Federal Elections* (Melbourne, 1900). He conferred on several occasions with R. R. Garran, who was then secretary to the Attorney-General's Department, which drafted the bill (see *Advertiser* (Adelaide), 14 January 1902).
- 15 A Bill for An Act to Regulate Parliamentary Elections (As presented to the Senate on 24 January 1902), *Commonwealth of Australia, Senate, Bills Introduced, 1901-2 Session*, pp. 891-936.
- 16 See *Age* (Melbourne), 4 February 1902 and 28 February 1902.
- 17 L. F. Crisp, *The Australian Federal Labor Party, 1901-1951* (London, 1955), p. 220.
- 18 *Age* (Melbourne), 6 February 1902.
- 19 *C.P.D.*, VII, 9762.
- 20 *C.P.D.*, VIII, 10615.
- 21 *C.P.D.*, VIII, 11019-20.
- 22 See the explanation given by the Labor leader, J. C. Watson, *C.P.D.*, X, 13790, and also Crisp, *op. cit.*, p. 220.
- 23 *C.P.D.*, XI, 14612-13.
- 24 The voting percentages are based on figures given in *Votes According to Parties, 1901-14, House of Representatives and Senate; Classified Election Returns, 1901-25*, and the numbers of members returned are taken from Geoffrey Sawyer, *Australian Federal Politics and Law, 1901-1929* (Melbourne, 1956).
- 25 *C.P.D.*, LXIII, 4055-56.
- 26 *Sydney Morning Herald*, 16 July 1914.
- 27 "Report from the Royal Commission upon the Commonwealth Electoral Law and Administration", *C.P.P.*, 1914-17, II, 435-54.
- 28 In 1914 the West Australian F.S.A. at one stage contemplated nominating a farmers' candidate for Dampier, but its annual conference decided against such drastic action. *West Australian* (Perth), 17 July 1914, 18 July 1914; *Western Australian Farmers' and Settlers' Association, Conference Report 1914* (Perth, 1914), pp. 6, 8, and 47-52.
- 29 Victorian Farmers' Union, Central Council Minutes, I, 21 February 1917, 41.
- 30 *Sydney Morning Herald*, 30 March 1917.
- 31 *Primary Producer*, 18 October 1918.
- 32 *Examiner* (Launceston), 21 April 1917.
- 33 Figures taken from Table 1 of Joan Rydon's "Electoral Methods and the Australian Party System, 1910-1951", pp. 175-91 of this book.
- 34 These seats were: Fawkner (National vote 51.10 per cent), Wannon (54.76

per cent), Calare (51.77 per cent), Hume (51.86 per cent), Illawarra (54.30 per cent), Werriwa (52.77 per cent), Angas (50.84 per cent), Kalgoorlie (51.26 per cent), Oxley (52.78 per cent), Herbert (51.31 per cent), Moreton (50.09 per cent), Wide Bay (52.88 per cent).

35 C.P.D., LXXXVII, 8139.

36 *Farmers' Advocate*, 1 February 1918.

37 *Primary Producer*, 18 October 1918.

38 See Ulrich Ellis in *The Countryman*, November 1954, p. 4.

39 See *Argus* (Melbourne), 9 May 1918 and 11 May 1918.

40 See *West Australian* (Perth), 24 October 1918.

41 C.P.D., LXXXVI, 7484-501.

42 *Commonwealth of Australia Gazette*, II (23 November 1918) 184, 2257.

43 The actual figures for the first and final counts were:

Candidates	First Count		Final Count	
		per cent		per cent
J. H. Scullin (Labor)	10,633	42.47	10,944	43.71
G. H. Knox (National)	5,737	22.91		
R. F. Coldham (Independent Nat.)	1,174	4.69		
T. D. Leaper (Soldier Nat.)	892	3.56		
W. G. Gibson (V.F.U.)	6,604	26.37	14,096	56.29
Valid votes	25,040		25,040	

(These results and those for the Flinders and Swan by-elections are given in *Biographical Handbook and Record of Elections for the Parliament of the Commonwealth*, 5th issue (Canberra, 1926). However this source (p. 493) gives the wrong figure for Scullin's primary vote, which was 10,633, not 10,630.)

44 The Electoral Act of 1919, which need not concern us here, provided for preferential voting in Senate elections but also laid down vote-counting procedures which ensured absolute-majority rather than proportional representation.

45 C.P.D., LXXXVI, 7333.

46 C.P.D., LXXXVI, 7402.

47 C.P.D., LXXXVI, 7347.

48 In such situations, the preferences of centre voters will usually favour one of the two flank parties. Thus in the 1919 and 1922 elections, Nationalist candidates obtained most of the preferences of excluded Country Party nominees. As a result, minority Labor candidates with votes of under 45 per cent rarely won through on the second count (see in Table 2 the results for Corangamite, Gwydir, and Riverina in 1922).

15. THE EFFECT OF THE "DONKEY VOTE" ON THE HOUSE OF REPRESENTATIVES by C. J. Masterman, p. 220

1 *The "Donkey Vote" for the House of Representatives* (1963: mimeo).

2 *Ibid.*, p. 22.

3 *Ibid.*

16. COMPULSORY VOTING by Colin A. Hughes, p. 225

1 *Modern Democracies* (London, 1921), I, 60.

2 J. E. Llewellyn, "Compelled to Vote", *Dissent*, No. 11 (1964), p. 37.

- 3 Creighton Burns, *Parties and People* (Melbourne, 1961), p. 137.
- 4 Llewellyn, *op. cit.*
- 5 *An Introduction to Democratic Theory* (New York, 1960), p. 122.
- 6 "In Defence of Apathy: Some Doubts on the Duty to Vote", *Political Studies*, II (1954), 36.
- 7 "Compulsory Voting", *Political Science Quarterly*, XXXVIII (1923), 576.
- 8 Data in Tables 1-4 come from the forthcoming *Handbook of Australian Government and Politics* (Canberra).
- 9 Communications from the Commonwealth Chief Electoral Officer, 30 August 1966, the New South Wales Electoral Commissioner, 22 August 1966, the Victorian Chief Electoral Officer, 23 August 1966, the Queensland Chief Electoral Officer, 23 August 1966, the South Australian Assistant Returning Officer, 9 September 1966.
- 10 Australian Public Opinion Polls, *Bulletin*, November-December 1963.
- 11 Colin A. Hughes and John S. Western, *The Prime Minister's Policy Speech* (Canberra, 1966).
- 12 A. Campbell *et al.*, *The American Voter* (abr. ed.; New York, 1964), p. 57.
- 13 "Compulsory Voting in Australia", *Parliamentary Affairs*, VI (1953).
- 14 R. Rose and A. J. Heidenheimer (eds.), *Comparative Political Finance* (Gainesville, Fla., 1963), pp. 797-98.
- 15 Colin A. Hughes, *No Change* (forthcoming).
- 16 Campbell *et al.*, *op. cit.*, p. 51.
- 17 R. E. Lane, *Political Life* (New York, 1959), p. 53.

PART V, FEDERAL INSTITUTIONS

INTRODUCTION, p. 241

- 1 A. P. Canaway, *The Failure of Federalism* (London, 1930).
- 2 Gordon Greenwood, *Future of Australian Federalism* (Melbourne, 1946).
- 3 H. V. Portus (ed.), *Studies in the Australian Constitution* (Sydney, 1933).
- 4 Geoffrey Sawer (ed.), *Federalism: A Jubilee Study* (Melbourne, 1952).
- 5 Richard H. Leach, *Intergovernmental Relations in Australia* (Lexington, 1965).

17. THE RECORD OF JUDICIAL REVIEW by Geoffrey Sawer, p. 243

- 1 (1803) 1 Cranch 137. The arguments failed.
- 2 The assumption that only what courts say is "objectively true" is sometimes irritating to legislators, but it is undeniable that the courts are less tempted to misconstrue basic constitutions than are politicians.
- 3 The common law of contempt of court has been swallowed up by the guarantee of free speech and press freedom in the First Amendment.
- 4 *C.P.D.*, XIII, 591 ff.; XV, 2694 ff.
- 5 (1918) 25 C.L.R. 506.
- 6 (1925) 37 C.L.R. at pp. 412, 413.
- 7 (1947) 74 C.L.R. at p. 82.
- 8 The *Australian Law Journal* has always been prepared to publish material of the highest scholarly standard; the difficulty has been dearth of the

- material, and this in turn has been largely due to the inadequate numbers of full-time teachers in Australian law schools.
- 9 See especially *Tasmania v. Commonwealth* (1904) 1 C.L.R. and the *Engineers' Case* (1920) 28 C.L.R. 129.
 - 10 See especially *Baxter v. Commissioners of Taxation* (1907) 4 C.L.R. at p. 1105.
 - 11 Cf. Griffith, C.J. in 1 C.L.R. at p. 343, 4 C.L.R. at p. 1128, p. 1129, *contra per cur.* in 4 C.L.R. at p. 534.
 - 12 1907 A.C. 81.
 - 13 (1947) 74 C.L.R. 31.
 - 14 *Ibid.*
 - 15 1 C.L.R. 208 (April).
 - 16 1 C.L.R. 329 (June).
 - 17 The latter construction was adopted by a majority of the High Court in the *First Pharmaceutical Benefits Case* (1945) 71 C.L.R. 237.
 - 18 1891 *Debates* (Sydney, 1891), pp. 788-89.
 - 19 (1928) 41 C.L.R. 128.
 - 20 (1938) 59 C.L.R. 555.
 - 21 (1947) 74 C.L.R. 421.
 - 22 (1929) 42 C.L.R. 481. The dissent of Isaacs J. upholding the arrangement in question is convincing.
 - 23 (1935) 54 C.L.R. 262.
 - 24 Their role might have been more facultative if they had not rejected the power to give advisory opinions as to which see p. 259.
 - 25 (1914) 18 C.L.R. 224.
 - 26 *Farey v. Burvett* (1916) 21 C.L.R. 433.
 - 27 28 C.L.R. 129.
 - 28 (1936) 55 C.L.R. 608; (1939) 61 C.L.R. 634.
 - 29 (1942) 65 C.L.R. 373.
 - 30 (1946) 71 C.L.R. 29.
 - 31 See especially per Dixon J. in *R. v. Poole, ex parte Henry* 61 C.L.R. at p. 650. The cases in which a "commingling" argument has been rejected are inconclusive, since on the facts there was no pressing need for Commonwealth intervention; e.g. *Newcastle and Hunter River Steamship Co. Ltd. v. A. G.* (1921) 29 C.L.R. 357; *King v. Turner* (1927) 39 C.L.R. 411; *Nagrint v. "Regis"* (1938) 61 C.L.R. 688.
 - 32 See especially their opinions in the *Holyman Case* (1914) 18 C.L.R. 273, the *Tramways Case No. 2* (1914) 19 C.L.R. 43 and the *Queensland Sugar Award Case* (1916) 22 C.L.R. 261. O'Connor J. was notably free from this bias.
 - 33 See G. Sawyer, "Developments of the Last Twenty-Five Years" in *Federalism in Australia* (Sydney, 1949), and "Implication and the Constitution", *Res Judicatae*, IV (1948-50), 15, 85; and K. H. Bailey, "Fifty Years of the Australian Constitution", *Australian Law Journal*, XXV (1951-53), 314.
 - 34 (1931) 44 C.L.R. 492.
 - 35 This was characteristic. Sir Frank was one of the most learned and wittiest lawyers this country has produced (see his inimitable verses, "A Dream of Fair Judges", in *Res Judicatae* I (1937). Would that all realist jurisprudence could be expressed in such felicitous language!) but he never fulfilled on the bench the promise of his bar career; he sometimes avoided the responsibility of either giving or joining in a broad decision on a constitutional point and had little influence on the doctrinal developments of his time. See for a sort of parody of this tendency, his opinion in *Daimler Co. Ltd. v. Registrar of Trade Marks* (1914) 18 C.L.R. 447.
 - 36 Although Starke J. went along with Isaacs J. in the expansion of Commonwealth power from 1919 until about 1928, his views from then on grew in-

- creasingly conservative; indeed during the Second World War, he delivered a series of dissenting opinions in cases of the defence power in which he displayed a contempt for the judgment of the parliament and executive, and for the opinions of his brothers on the bench, which is exhilarating for students but not in the best of judicial taste. See especially 69 C.L.R. at p. 62, at p. 507, and 70 C.L.R. at p. 428.
- 37 Arguments of a supposedly logical character seeking to measure the ambit of a power by its "essential characteristics" have often been put forward in the High Court, and both Rich and Dixon JJ.—men with strong training in lawyer's law with its extensive use of scholastic casuistry—have tended at times to rely on such verbal counters. The *reductio ad absurdum* of such quasi-logic is the proposition that under a power to make laws about dogs, the only valid law would be one in the form: "No dog may bite another dog without the consent of a third dog." From the various attempts at constructing a "logic of characterisation", and at contrasting the form in which powers have been granted by the Australian, United States and Canadian Constitutions, only one sensible conclusion can be drawn; the problem of measuring the limits of a power can be solved only by reference to the linguistic and political habits of the community and by a rough common sense. The classical discussions of characterisation of statutes are in 8 C.L.R. at pp. 410 ff. (Higgins J.), 69 C.L.R. at p. 471 (Dixon J.) and 76 C.L.R. at p. 182 (Latham C.J.).
- 38 The assumption that legislation can "truly" or "in pith and substance" be with respect to only one head of power, evident in such cases as *Barger* (1908) 6 C.L.R. 41, seems to be a survival of classical metaphysical notions of "essences".
- 39 (1936) 54 C.L.R. 657.
- 40 *Dignan's Case* (1931) 46 C.L.R. 73.
- 41 *R. v. Mahoney* (1931) 46 C.L.R. 131.
- 42 *Dignan v. Australian Steamships Pty. Ltd.* (1931) 45 C.L.R. 188.
- 43 Stone, "A Government of Laws and Yet of Men", *West Australian Annual Law Review*, I (1948-50), 461; Beasley, "The Commonwealth Constitution: Section 92", *ibid.*, p. 97; Sawyer, "The Case of Bank Nationalization", *Journal of Comparative Legislation and International Law* XXXII (1950), III and IV, 17.
- 44 (1915) 20 C.L.R. 54.
- 45 (1916) 21 C.L.R. 357.
- 46 (1916) 22 C.L.R. 556.
- 47 (1920) 28 C.L.R. 530.
- 48 1932 A.C. 542.
- 49 To prevent States from nullifying a Commonwealth protectionist policy by imposition of countervailing excise duties.
- 50 *Peterwald v. Bartley* (1904) 1 C.L.R. 497.
- 51 (1950) 80 C.L.R. 55.
- 52 (1938) 60 C.L.R. at p. 304.
- 53 1934 A.C. 45.
- 54 1943 A.C. 550.
- 55 Under the Canadian Constitution, the question is not whether a tax is an "excise", but whether it is "direct" or "indirect", so that it is always open to the High Court to disregard such precedents.
- 56 See the remarks of Griffith C.J. quoting Bryce in 4 C.L.R. at p. 1110.
- 57 1936 A.C. 578.
- 58 The High Court has given over 400 decisions on the Constitution, of which more than 200 involve important questions of principle.
- 59 1907 A.C. 81.
- 60 28 C.L.R. 129.

- 61 1914 A.C. 237.
- 62 1917 A.C. 528.
- 63 See *ex parte Nelson* (No. 2) 42 C.L.R. at pp. 270 ff.
- 64 1931 A.C. 275.
- 65 Hence the confusion of opinion the *Rola Case* 69 C.L.R. 185.
- 66 1940 A.C. 838.
- 67 *James v. Cowan* 1932 A.C. 542; *James v. Commonwealth* 1936 A.C. 578; *The Bank Case* 79 C.L.R. 497.
- 68 81 C.L.R. 144.
- 69 The Board suggests that Dixon J. would not regard questions of exclusive power as *inter se*. Dixon J. was dealing with the quite different question of prohibitions.
- 70 1903 A.C. 471.
- 71 1906 A.C. 360.
- 72 (1921) 29 C.L.R. 25.

18. THE INTER-STATE COMMISSION by J. A. La Nauze, p. 261

- 1 *Federal Convention Debates* (Melbourne, 1898) II, 2509.
- 2 *Ibid.*, p. 1525.
- 3 *Ibid.*, p. 1531.
- 4 C.P.D., LXIX, 7069.
- 5 C.P.D., LXIX, 7071.
- 6 C.P.D., LXIX, 7603.
- 7 C.P.D., LXIX, 7113
- 8 *Adelaide Register*, 6 August 1913.
- 9 C.P.P., 1914-17, VI, 247.
- 10 C.P.P., 1914-17, VI, 1794.
- 11 "Commonwealth Tariff Investigation Report, 1915", C.P.P., 1914-17, Vol. VI.
- 12 E. H. Sugden and F. W. Eggleston, *George Swinburne, A Biography* (Sydney, 1931), p. 325.
- 13 Second Annual Report of the Inter-State Commission, p. 9.
- 14 *Op. cit.*, p. 345.
- 15 "Inter-State Commission Report on New Industries", C.P.P., 1914-17, VII, 616.
- 16 *Australia* (Sydney, 1945), p. 109.

19. THE AUSTRALIAN LOAN COUNCIL—ITS ORIGIN, OPERATION AND SIGNIFICANCE IN THE FEDERAL STRUCTURE by C. G. Headford, p. 271

- 1 R. C. Mills, "The Financial Relations of the Commonwealth and the States", *Economic Record*, IV (1928), 1.
- 2 R. C. Mills, "Australian Loan Policy" in Persia Campbell *et al.* (eds.), *Studies in Australian Affairs* (Melbourne, 1928), p. 105.
- 3 R. R. Garran, Minutes of Evidence, *Report of the Royal Commission on the Constitution* (1929), p. 73. Cf. Mr. Barton's speech at the Federal Convention, Melbourne, 1898 in *Convention Debates* (Melbourne, 1898), pp. 8-9.

- 4 A. Deakin, Letter to the London *Morning Post* 12 May 1902, quoted by J. A. La Nauze, "The Chariot Wheels of the Central Government", *Economic Record*, XXVIII (1952), 242.
- 5 *Report of the Royal Commission on the Constitution* (1929), p. 192.
- 6 *Commonwealth of Australia Yearbook*, No. 37, p. 640.
- 7 J. T. Lang Budget speech 3 December 1925, quoted in *Sydney Morning Herald*, 4 December 1925. Cf. L. F. Giblin, *The Growth of a Central Bank* (Melbourne, 1951), p. 51.
- 8 L. F. Giblin, *op. cit.*
- 9 In September 1923 a loan of £38,750,000 matured. Conversions and subscriptions fell short by £6,500,000. *Round Table*, XIV (1923-24).
- 10 C.P.D., CIV, 1662.
- 11 C.P.D., CII, 84-85.
- 12 C.P.D., CVII, 2727.
- 13 *Sydney Morning Herald*, 8 July 1925.
- 14 *Sydney Morning Herald*, 4 December 1925.
- 15 "It would be madness for us to permit an outside Federal authority to regulate our public works policy by deciding how much we should be permitted to borrow, and when and where we should borrow it." *Sydney Morning Herald*, 11 February 1927. See also Reports of Debates, *Conference of Commonwealth & State Ministers* 1927 (16 June 1927), p. 17.
- 16 G. Wood, *Borrowings and Business in Australia* (London, 1930), p. 222.
- 17 *Round Table*, XVII (1926-27), p. 182, and *Sydney Morning Herald*, 17 June 1927.
- 18 Institute of International Finance, *Credit Position of Australia*, Bulletin No. 11, 8 February 1928, p. 21 (held in Mitchell Library, Sydney).
- 19 *Round Table*, XVII (1926-27), p. 184.
- 20 Labour Treasurers "expressed amazement" at New South Wales not rejoining, *Sydney Morning Herald*, 5 December 1925. On 15 August 1925 the Council passed a resolution expressing regret at the decision of the N.S.W. Government to withdraw and urged it to rejoin. The resolution stated: "The Council emphasizes the fact that it is a non-party body, with advisory functions, but without executive authority; also that no decision of the loan council can bind any Government, unless it endorses the decision." *Sydney Morning Herald*, 17 August 1925.
- 21 *Report of the Royal Commission on the Constitution* (1929), p. 188.
- 22 *Conference of Commonwealth & State Ministers* (May 1926), pp. 38, 61.
- 23 C.P.D., CXIV, 4238-39, 4248, 4536.
- 24 *Conference of Commonwealth & State Ministers* (June 1927), especially pp. 16-17.
- 25 *Ibid.*, pp. 23-24.
- 26 The Commonwealth was to get one-fifth—its proportion over the last five years—and the balance was to be split up among the States on the basis of each State's borrowings over the past five years. Population and production bases were rejected because "a grave injustice would be done to the large undeveloped States if they were adopted", *ibid.*, p. 13.
- 27 S. M. Bruce in *Conference of Commonwealth & State Ministers* (June 1927), p. 21.
- 28 In the light of subsequent events, it is interesting to note that clauses reading "the Loan Council shall control all future borrowings" were altered to "arrange" such matters: "In order to remove any feelings of misapprehension that too much power might be claimed by the Council," *Sydney Morning Herald*, 21 June 1927.
- 29 Of the Premiers who accepted the agreement proposed by a non-Labour Commonwealth Government, five were members of the Labour Party.

- 30 Each State receives a proportion of the remainder equal to the ratio of its net loan expenditure in the preceding five years to the net loan expenditure of all States during the same period. For fuller details see the Schedule to the Financial Agreement Act 1928.
- 31 See *Conference of Commonwealth & State Ministers* (June 1927); also S. M. Bruce, *The Financial and Economic Position of Australia* (The Joseph Fisher Lecture in Commerce, University of Adelaide, 1927), pp. 12-13.
- 32 D. B. Copland and C. V. Janes, *Cross Currents of Australian Finance* (Sydney, 1938), p. 4.
- 33 L. F. Giblin, *op. cit.*, p. 52.
- 34 *Sydney Morning Herald*, 11 January 1929.
- 35 *Round Table*, XXIII (1932-33), 76.
- 36 For a fuller description of the events, see particularly N. Cowper, "The Financial Agreement" in G. V. Portus (ed.), *Studies in the Australian Constitution* (Sydney, 1932), pp. 130 ff., *Round Table*, XXIII (1931-32), 878-85, L. F. Giblin, *op. cit.*, chap. 3.
- 37 *Round Table* XXV (1934-35), 173; W. R. McLaurin, *Economic Planning in Australia 1929-36* (London, 1937), pp. 179, 181.
- 38 Which, during those years, pursued a policy largely independent of the Commonwealth Government, L. F. Giblin, *op. cit.*
- 39 See Appendix.
- 40 Copland and Janes, *op. cit.*, pp. 11, 14.
- 41 *Sydney Morning Herald*, 28 May 1935.
- 42 *Sydney Morning Herald*, 18 June 1925.
- 43 *Sydney Morning Herald*, 31 May 1929.
- 44 Copland and Janes, *op. cit.*, p. 16.
- 45 *Commonwealth of Australia Year Book*, No. 38, p. 818.
- 46 *Sydney Morning Herald*, 25 April 1938.
- 47 *Sydney Morning Herald*, 23 June 1939.
- 48 B. S. B. Stevens, "The Functioning of the Loan Council", p. 2 (A summary of a speech delivered 24 November 1939 to the Economic Society of Australia and New Zealand, held in Mitchell Library, Sydney).
- 49 *N.S.W. Year Book 1941-42 and 1942-43*, p. 422.
- 50 *Sydney Morning Herald*, 16 July 1943.
- 51 H. V. Evatt, *Post-War Reconstruction: A Case for Greater Commonwealth Powers* (Canberra, 1942), p. 58.
- 52 W. K. Hancock, *Australia* (London, 1930), p. 125.
- 53 *Sydney Morning Herald*, 25 August 1944.
- 54 *Sydney Morning Herald*, 26 August 1944.
- 55 R. G. Menzies in *Australian Financial Review*, 11 October 1951.
- 56 *Australian Financial Review*, 17 April 1952.
- 57 In fact, only £63,810,000 was raised from the market; *C.P.D.*, CCXVIII, 81.
- 58 *Ibid.*
- 59 R. G. Menzies in *Australian Financial Review*, 11 October 1951.
- 60 *C.P.D.*, CCXVIII, 68.
- 61 *C.P.D.*, CCXVIII, 96.
- 62 S. R. Davis, "Co-operative Federalism in Retrospect", *Historical Studies—Australia and New Zealand*, V (1952), 225.
- 63 A description given it by R. G. Menzies many years ago—see C. A. V. Hawker, "Towards Federal Equilibrium", *Australian Quarterly*, IX (1937), 62.
- 64 S. R. Davis, *op. cit.*, p. 229.
- 65 *Conference of Commonwealth & State Ministers* (June 1927), p. 23.

20. THE COMMONWEALTH GRANTS COMMISSION AND POLICY FORMULATION IN THE CLAIMANT STATES by R. J. May, p. 283

- 1 "Commonwealth-State Relations—Administrative Trends and Problems", *Public Administration* (Sydney), XXI (1962).
- 2 *Ibid.*, p. 101.
- 3 Commonwealth Grants Commission, *Third Report* (1938), p. 75.
- 4 *Ibid.*, p. 75.
- 5 *Ibid.*, p. 90.
- 6 In 1935 and 1936 New South Wales was excluded from the standard because of several "abnormal" features of its finances.
- 7 See *Nineteenth Report* (1952), p. 46.
- 8 And the nature of the adjustment for severity of taxation had been greatly altered by the uniform tax scheme.
- 9 See *Twenty-fifth Report* (1958), pp. 31-37.
- 10 *Seventeenth Report* (1950), p. 91. See also *Seventh Report* (1940), pp. 61-63; *Eighth Report* (1941), p. 80; *Fourteenth Report* (1947), pp. 90 and 111; *Nineteenth Report* (1952), pp. 49-50.
- 11 Although, of course, an addition to revenue could lead to a complete revision of the composition of expenditure.
- 12 *Financial Statement by the Premier and Treasurer of Western Australia* (hereafter W.A.F.S.) 1945-46, p. 10. At this stage the Commission had additional powers under the States Grants (Income Tax Reimbursement) Act 1942.
- 13 *Fifth Report* (1938), p. 53.
- 14 In several instances there had been a substantial write-off of public debts shortly before State elections.
- 15 *Ibid.*, p. 88. South Australia's grant was reduced by £10,000, Western Australia's by £9,000 and Tasmania's by £7,000.
- 16 *Ibid.*, p. 81.
- 17 *Seventh Report* (1940), p. 65.
- 18 *Ibid.*, p. 63.
- 19 Quoted in *ibid.*, p. 70.
- 20 See W.A.F.S., 1939-40, p. 9; and W.A.P.D., 1939, I, 920.
- 21 See W.A.F.S., 1948-49, p. 5.
- 22 See W.A.F.S., 1953-54, pp. 6-7.
- 23 On this, see the comments by Senator Lillico (Tas.) during the Second Reading of the States Grants Bill 1959, C.P.D. Sen. I, 1713-14.
- 24 See *ibid.*
- 25 See *Budget Speech and Financial Statement of the Treasurer of Tasmania* (hereafter T.F.S.), 1957-58, p. 12.
- 26 *South Australian Financial Statement* (hereafter S.A.F.S.), 1951-52, p. iii.
- 27 See *ibid.*, p. v.
- 28 South Australia, *Submission to the Commonwealth Grants Commission for a Special Grant for 1954-55*, p. 13.
- 29 *Ibid.*, p. 12.
- 30 W.A.F.S. 1953-54, pp. 5-6.
- 31 W.A.F.S. 1954-55, p. 1.
- 32 W.A.F.S. 1960-61, pp. 4-5.
- 33 See *Mercury* (Hobart), 4, 6, 7, 14, 19 September 1957.
- 34 *Mercury* (Hobart), 19 September 1957.
- 35 This evaluation is the Hobart *Mercury's* (17 October 1957)—not the Under-Treasurer's. The relevant memorandum had apparently been written early in 1957.

- 36 For a final assessment of the episode see *Mercury* (Hobart), 26 October 1957, "Political Observer".
- 37 From report given by A.L.P. General Secretary, on behalf of the Premier, Minutes, Trade Unions Industrial Council, 13 April 1954, quoted in R. M. Martin, *Trade Union and State Enterprise in Australia* (Ph.D. thesis, A.N.U., 1958).
- 38 A further example in this category of the Commission's influence is quoted by Senator Lillico, *loc. cit.* It relates to the Tasmanian Government's take-over of the Hobart and Launceston tramway systems.
- 39 Tasmania, *Statement Prepared for Presentation to the Commonwealth Grants Commission by Way of Application for a Special Grant for 1952-53*, p. 5.
- 40 See Tasmania, *Statement . . . for a Special Grant for 1953-54*.
- 41 Senator Lillico referred to this subject in the extract cited in n. 23.
- 42 See *Eleventh Report* (1944), pp. 86-87.
- 43 *T.F.S.*, 1946-47, p. 6.
- 44 Recorded in *W.A.F.S.*, 1941-42, pp. 12-13.
- 45 Victoria and Queensland applied for special grants, for the first time, in 1958 thereby forcing the Commonwealth to review Commonwealth-State financial relations. For a detailed account of this see the Commission's *Twenty-sixth Report* (1959), chap. II.
- 46 See *Fourth Report* (1937), p. 94.
- 47 See *Mercury* (Hobart), 8 September 1942; and *C.P.D.*, CLXXII, 1077 and 1082.
- 48 E.g. see reports in *Mercury* (Hobart), 23 January 1945.
- 49 See *Mercury* (Hobart), 20 October 1944, editorial.
- 50 See *Financial Relations between Commonwealth and the States. History of Tasmania's Parliamentary Formula and Brief Explanation of the Present Position* (1943).
- 51 See *Mercury* (Hobart), 17 October, 1940.
- 52 E.g. see *W.A.F.S.*, 1945-46, p. 10; *W.A.F.S.*, 1947-48, p. 11; *S.A.F.S.*, 1956-57, p. iv; and *Conference of Commonwealth & State Ministers* (August 1948), p. 12.
- 53 E.g. see *W.A.P.D.*, 1940, II, 1458-61, and 1949, II, 872, and *W.A.F.S.*, 1950-51, pp. 1-2.
- 54 See Senator Lillico, *loc. cit.*
- 55 *W.A.P.D.*, 1942, II, 870-71.
- 56 E.g. see *W.A.F.S.*, 1940-41, p. 14.
- 57 E.g. see *Conference of Commonwealth & State Ministers* (September 1950), p. 12.
- 58 See *W.A.P.D.*, 1940, II, 1451. The motion was opposed by the Premier—see n. 52—and was withdrawn.
- 59 See *S.A.F.S.*, 1959-60, p. iv.
- 60 *S.A.P.D.*, 1959, I, 172.
- 61 See *T.F.S.*, 1959-60, p. 14, and *Conference of Commonwealth & State Ministers* (March 1959), pp. 36-38.
- 62 Cf. F. L. Neumann, "Federalism and Freedom: A Critique" in A. W. Macmahon (ed.), *Federalism Mature and Emergent* (New York, 1955); and W. S. Livingston, *Federalism and Constitutional Change* (Oxford, 1956), chaps. 1 and 2.
- 63 On this point see, for example, *S.A.P.D.*, 1937, I, p. 98; *Mercury* (Hobart), 26 October 1944 (reporting moves in the Tasmanian Legislative Council); and *Conference of Commonwealth & State Ministers* (June 1955, June 1958, March 1959). The record of Western Australia, South Australia and Tasmania in referenda involving extension of federal powers and Tasmania's claim to being the only State not to oppose the uniform tax scheme on

- grounds of States' "sovereignty" (see Tasmania, *Statement . . . for a Special Grant for 1944-45*, pp. 2-3) may also be relevant here.
- 64 Cf. H. Mayer's "Introduction" to A. Wildavsky and D. Carboch, *Studies in Australian Politics* (Melbourne, 1958).
- 65 This is the more so since, the claimant States being relatively "small" (in some respects), such central direction is more feasible. Cf. S. Encel, "Cabinet Machinery in Australia", *Public Administration* (Sydney), XV (1956), 99.

21. THE AUSTRALIAN AGRICULTURAL COUNCIL: A SUCCESSFUL EXPERIMENT IN COMMONWEALTH-STATE RELATIONS by F. O. Grogan, p. 297

- 1 The Commonwealth Grants Commission set up in 1933 to investigate the claims of the States for financial assistance drew attention to the clash between State and central developmental policies, since the Commonwealth had been mainly concerned with the fostering of secondary industries, by means of the tariff whereas the States had been interested in developing primary production and aiding land settlement.
- 2 The late J. F. Murphy, a former Secretary of the Department of Commerce and Agriculture, stated that since the inception of the Council all (Commonwealth) proposals (relating to agriculture) of a fundamental character have been placed before it. No revolutionary change has been made, no new plan has been devised, in either peace or wartime that has not first been put to and discussed with the Australian Agricultural Council.
- 3 J. F. Murphy, who was a member of the Commission, has expressed reservations regarding the Commission's views on the Agricultural Council.
- 4 See J. G. Crawford, "Administrative Aspects of Food and Agricultural Policy", *Public Administration* (Sydney) XI (1952); and *Australian Agricultural Policy* (Adelaide, 1952).

PART VI, PARTIES AND PRESSURE GROUPS

INTRODUCTION, p. 319

- 1 Louise Overacker, *The Australian Party System* (New Haven, 1952).
- 2 James Jupp, *Australian Party Politics* (Melbourne, 1964).

22. THE AUSTRALIAN PARTY SYSTEM by L. C. Webb, p. 321

- 1 51 C.L.R., 358-86.
- 2 Leslie Lipson, "The Two-Party System in British Politics", *American Political Science Review*, XLVII (1953).

- 3 For an account of the period see L. F. Fitzhardinge, "Political and Public Life" in Groom (ed.), *Nation Building in Australia* (Sydney, 1941); also Walter Murdoch, *Alfred Deakin* (London, 1923), pp 206-70.
- 4 *C.P.D.*, XXI, 4884.
- 5 Fitzhardinge, *op. cit.*, p. 55.
- 6 *Ibid.*, p. 81.
- 7 *C.P.D.*, XXII, 5261.
- 8 Murdoch, *op. cit.*, p. 235.
- 9 Fitzhardinge, *op. cit.*, p. 82.
- 10 *Ibid.*, p. 83.
- 11 Murdoch, *op. cit.*, p. 279.
- 12 M. Duverger, "The Influence of the Electoral System on Political Life", *International Social Science Bulletin*, III (1951), 335.
- 13 For a discussion of this episode and of the case for preferential voting see *C.P.D.*, LXXXVI, 7193-220, 7242-58, 7397-423.
- 14 Sir Frederic Eggleston, *Reflections of an Australian Liberal* (Melbourne, 1953), chap. 5.
- 15 Louise Overacker, *The Australian Party System* (New Haven, 1952), pp. 220 and 236-39.
- 16 L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (Melbourne, 1949), p. 130.
- 17 *Sydney Morning Herald*, 24 March 1953.
- 18 Lipson, *op. cit.*, p. 339.
- 19 H. J. Laski, *Communist Manifesto: Social Landmark* (London, 1948), pp. 136-37.
- 20 M. Duverger, *Les Partis Politiques* (Paris, 1958).
- 21 A. L. Rowse, *Politics and the Younger Generation* (London, 1931), p. 76.
- 22 For a discussion of this proposition see R. Centres, *The Psychology of Social Classes* (Princeton, 1949).
- 23 M. Benney and P. Geiss, "Social Class and Politics in Greenwich", *British Journal of Sociology*, I (1950).
- 24 E. E. Schattschneider, *Party Government* (New York, 1942), p. 87.
- 25 *The Union Democrat* (issued by the Central Industrial Executive of the A.L.P.), July 1953.
- 26 W. Stargardt (ed.), *Things Worth Fighting For* (Melbourne, 1953), p. 8.
- 27 *Courier-Mail* (Brisbane), 9 April 1953.
- 28 Fitzhardinge, *op. cit.*, p. 86.
- 29 *Ibid.*, p. 85.
- 30 B. Disraeli, *Coningsby*, Book 2, chap. 6.

23. PARTY DISCIPLINE IN AUSTRALIA by J. D. B. Miller, p. 344

- 1 The quotation is from W. K. Hancock, *Australia* (Sydney, 1945), p. 175. Other works in which Labour party discipline is discussed are Bryce, *Modern Democracies*, (London, 1921) II; W. Harrison Moore in Atkinson (ed.), *Australia: Economic and Political Studies* (Melbourne, 1920); various writings by F. A. Bland, such as the Introduction to his *Government of Australia* (2nd ed.; Sydney, 1944); J. D. B. Miller, "Aspects of the Party System in Australia", *Parliamentary Affairs*, VI (1953); Alexander Brady, *Democracy in the Dominions* (Toronto, 1947); and L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (Melbourne, 1949).
- 2 W. H. L. Ranken, *The Dominion of Australia* (London, 1874), pp. 288-90.

- 3 See J. A. Froude, *Oceana* (London, 1886); Charles Dilke, *Greater Britain* (London, 1890) and *Problems of Greater Britain* (London, 1890); and Anthony Trollope, *Australia and New Zealand* (Melbourne, 1876). The last two books are the more informative.
- 4 There has always been a higher proportion of Catholic Irish in Australia than in New Zealand. In 1881 Catholics were 23.3 per cent of the Australian population, 14.1 per cent of the New Zealand.
- 5 C. Gavan Duffy, *My Life in Two Hemispheres* (London, 1898) II, pp. 135-36.
- 6 Henry de R. Walker, *Australasian Democracy* (London, 1897), pp. 264-65.
- 7 See Parkes's *Fifty Years in the Making of Australian History* (London, 1896) and his *Speeches* (Melbourne, 1876) for his views on parliamentary government. It is significant that Parkes was continually made the subject of ridicule for his sometimes pompous insistence upon "correct" procedure; the people around him wanted to share in the dignity of Parliament, but were scornful and impatient of the means necessary to ensure that dignity was preserved.
- 8 Ambrose Pratt's *David Syme* (London, 1908) is misleadingly laudatory; a truer picture is to be found in J. A. La Nauze's essay in his *Political Economy in Australia* (Melbourne, 1949), although this is meant to deal only with Syme's views on economics.
- 9 See Leslie Lipson, "The Origins of the Caucus in New Zealand", *Historical Studies—Australia and New Zealand*, II (1942).
- 10 See Walter Murdoch, *Alfred Deakin* (London, 1923), pp. 78-79, and the *Australasian*, 25 June 1881.
- 11 See *Daily Telegraph*, 6 November 1885 ff.
- 12 W. G. Spence, *Australia's Awakening* (Sydney, 1909), p. 307.
- 13 *Sydney Morning Herald*, 21 January 1889. Some candidates were refused endorsement by the central organisations because their assurances of intention were held to be unsatisfactory.
- 14 *Sydney Morning Herald*, 2 February 1889.
- 15 The point may be made that colonial society, in New South Wales at least, did not resent the use of disciplinary methods. In fact, they were seen as desirable means of ending the anarchy of local politics, by radicals such as the *Bulletin* editors and conservatives such as the *Sydney Morning Herald* editors. The means were tried, but found wanting by the older parties. Only when Labour began to use them with real effect did newspaper opinion, and popular opinion with it, begin to attack party discipline as a bad thing.
- 16 V. G. Childe, *How Labour Governs* (London, 1923), pp. 5-6.
- 17 In the later stages of a festive evening, the old I.W.W. song, "Solidarity for ever", is still popular with Labour men of the right, left, and centre.
- 18 *Daily Telegraph*, 19 January 1892.
- 19 *Daily Telegraph*, 19 June 1891.
- 20 G. Black, *History of the N.S.W. Labour Party* (Sydney, 1910), p. 7. In making this speech, which accurately expressed the desires of the party, Black forfeited his opportunity of becoming leader of the new party whose members did not know each other well enough to elect a leader, and were therefore functioning under a committee of management. Black "took it upon himself" to state the policy as if he had been chosen leader, an action much resented by other members.
- 21 The *Sydney Morning Herald* (20 January 1892) declared that "an interesting experiment in Parliamentary politics, the birth of novel and peculiar conditions, has been tried and has hopelessly failed", and that "the scheme was one which might have occasioned a great embarrassment to the general community by its success, a result that is obviated by its premature decease under conditions which, as the dirges of its mourners significantly indicate,

- preclude the faintest hope of any resurrection". The *Daily Telegraph* of the same date said that the party was "dead as the proverbial doornail for all the purposes which it was intended to serve".
- 22 Quoted in Black, *op. cit.*, pp. 2-3.
 - 23 In Australia the leader of the government is called Premier in the State Parliaments, Prime Minister in the Commonwealth.
 - 24 See Black, *op. cit.*; Childe, *op. cit.*, pp. 8-11; Spence, *op. cit.*, pp. 232-37; G. V. Portus, "The Australian Labour Movement" in Atkinson (ed.), *op. cit.*; H. V. Evatt, *Australian Labour Leader* (Sydney, 1942), chaps. VIII and IX.
 - 25 Minutes of Federal Parliamentary Labour Party (hereafter Minutes), 20 May 1901 and 6 June 1901. The Federal pledge, as later amended, also included the submission to the executive. See W. M. Hughes, *The Case for Labour* (Sydney, 1910), pp. 65-84.
 - 26 Louise Overacker, "The Australian Labour Party", *American Political Science Review*, XLIII (1949), 68.
 - 27 C.P.D., XIX, 1360-61.
 - 28 A.L.P. of N.S.W. Rules and Constitution.
 - 29 The State Executives of the Labour Party remain the bodies with power of endorsement over the candidates, even for Federal elections—a situation which sometimes causes confusion. There is a Federal Executive of the Labour Party, but its work is largely confined to settling quarrels between the States and laying down a Federal programme.
 - 30 Master Builders' Association of New South Wales, *Ten Years of Labour Rule in New South Wales* (1902), p. 5. This pamphlet gives numerous instances of Labour influence over the administrative policy of government departments, despite the fact that another party was ostensibly in power.
 - 31 See Murdoch, *op. cit.*, and L. F. Fitzhardinge, "Political and Public Life" in Groom (ed.), *Nation Building in Australia* (Sydney, 1941).
 - 32 See Official Reports of Commonwealth Political Labour Conference 1905 and 1908.
 - 33 Minutes, 10 April 1908.
 - 34 The one state in which it still continues is Victoria, where the electorates have been so arranged as to make it almost impossible for Labour to win a majority of seats. But there is more bad blood between the Liberal and Country Parties in Victoria than in any other State, and this has enabled Labour, by supporting Country Party governments, to gain certain things that it regarded as important. (Since Professor Miller wrote, a combination of the Liberal and Labour Parties reformed the electoral system, but subsequently the Liberal Party debauched it a trifle again. *Ed.*)
 - 35 See Spence, *op. cit.*, chap. XX.
 - 36 Minutes, 19 June 1901.
 - 37 Minutes, 23 April 1904.
 - 38 Minutes, 26 April 1904.
 - 39 Nettie Palmer, *Henry Bourne Higgins* (London, 1931), p. 176. Higgins was the last non-Labour man to be a member of a Labour ministry.
 - 40 Official Report of Commonwealth Political Labour Conference 1905. L. C. Jauncey maintains (*Australia's Government Bank* (London, 1933), p. 48) that this resolution was engineered by King O'Malley, a Tasmanian Federal M.P. who had been left out of the 1904 Ministry, in order to gain a seat in the next. O'Malley may have had some influence, but the motion was moved by delegates from Western Australia, where there had recently been conflicts over the Labour Premier's (Daglish) attitude towards his Cabinet and caucus. See Spence, *op. cit.*, pp. 357-58. It seems likely that the Daglish question was in delegates' minds, rather than any shortcomings of the Watson Ministry of 1904.
 - 41 Childe, *op. cit.*, p. 16.

- 42 See *Daily Telegraph*, 9-13 November 1908. The facts about the ballot are taken from Minutes, 12 November 1908.
- 43 Minutes, 6 October 1914.
- 44 That is, precedent in England. But in Australia the impermanence of ministries and the hole-and-corner intrigue by which they were selected had made many people advocate elective ministries on the Swiss model. The same advocacy was heard in New Zealand, cf. Leslie Lipson, *The Politics of Equality* (Chicago, 1948), p. 130, for the same reasons. Syme in Victoria was a life-long advocate of elective ministries, and they were almost adopted in South Australia. Such a strict constitutionalist as A. Berriedale Keith went so far as to say that in the circumstances of Australian parliaments with their kaleidoscopic changes of ministry, Labour's method of having a ministry elected by caucus was "a practice somewhat vehemently resented by their opponents, but one which it is difficult to avoid and which secures effective legislation", *Responsible Government in the Dominions* (Oxford, 1912) I, 327n.
- 45 These practices were taken straight from Parnell's Irish Party in the House of Commons.
- 46 Minutes, 14 June 1915.
- 47 See Evatt, *op. cit.*, chaps. XLVII and LII; and Childe, *op. cit.*, chaps. II and III.
- 48 J. P. Osborne, *Nine Crowded Years* (1921), p. 30.
- 49 There is no good, full-length study of the conscription split and its effects. The reader should consult L. C. Jauncey's *Story of Conscription in Australia* (London, 1935), which is useful for the facts from one viewpoint, and Ernest Scott, *Official History of Australia in the War* (Sydney, 1936) XI from the other.
- 50 The debate is reported on pp. 40-42 of the Report of the Eighth Commonwealth Conference of the A.L.P. 1949.
- 51 W. Harrison Moore, "Political Systems of Australia" in British Association for the Advancement of Science, *Federal Handbook on Australia* (Melbourne, 1914), p. 563. See also his essay with the same title in Atkinson (ed.), *op. cit.*
- 52 Brady, *op. cit.*, p. 194. See also Crisp, *op. cit.*, pp. 206-7.
- 53 See Warren Denning, *Caucus Crisis* (Parramatta, 1937), for a full account of this government's misadventures.
- 54 See J. D. B. Miller, "Australian Public Opinion: The Bretton Woods Controversy", *Australian Outlook*, I (1947), for an account of the arguments throughout the Labour movement.
- 55 Quoted by Evatt, *op. cit.*, p. 340.
- 56 See W. K. Hancock, "England and Australia", in his *Politics in Pitcairn* (London, 1947), for a brilliant analysis of Lang's position in the early 1930's, and J. A. McCallum, "The Australian Labour Party", *Australian Quarterly*, VIII (1936), for a brilliant account of Lang's rise to power.
- 57 The A.W.U. is the Australian Workers' Union, the largest union in Australia, and the only major union not affiliated with the A.C.T.U. (Australian Council of Trade Unions). Even before the A.C.T.U. was formed in 1927, the A.W.U. was playing a lone hand in political and industrial matters. In the 1920's it effectively controlled the Labour organisation in most of the States of the Commonwealth, and today it is supreme in the Labour Executives of Queensland, Western Australia, South Australia and Tasmania. It also exercises great influence in the Federal Executive and within the Federal Parliamentary Labour Party. It is not popular with any other unions, for it is looked on as a "body-snatcher" of members, and as an organisation which aims at swallowing up other unions. (In 1967 the A.W.U. joined the

- A.C.T.U.; its political influence has been much reduced since Professor Miller wrote. *Ed.*)
- 58 See Osborne, *op. cit.*, pp. 134-35, for a description of how the first trade union "ticket" was successfully run in opposition to Holman at the 1916 Conference of the Labour Party in New South Wales. Ever since, "tickets" have been the order of the day.
 - 59 This process was demonstrated at the 1952 conference of the A.L.P. in New South Wales, when the A.W.U. successfully led a coalition of opposition groups to defeat the sitting Executive's "ticket".
 - 60 See Brian Fitzpatrick, *The Australian People, 1788-1945* (Melbourne, 1946), pp. 42-43, for his conception of the trade unions as "really the continuing expression of the struggle of non-owning Australians", in contrast with the A.L.P.
 - 61 Crisp, *op. cit.*, chap. III.
 - 62 Hancock, *Australia* (Sydney, 1945), pp. 169 ff. See Lloyd Ross, *William Lane and the Australian Labour Movement* (Sydney, 1936), pp. 155-56, for an interesting commentary on Hancock's view.
 - 63 A recent instance of this was the attitude of the Federal Parliamentary party towards the Menzies Government's anti-Communist bill; the party waited until the Federal Executive had framed an "attitude" for it.
 - 64 This is the situation as it has developed in the Commonwealth, New South Wales, Victorian, Queensland, and Western Australian Parliaments. The non-Labour forces are united in South Australia and Tasmania.
 - 65 There have been nineteen years of non-Labour government in the Commonwealth since 1923 (to 1953). For only three of these (1931-34) was the main non-Labour party of sufficient strength to dispense with the assistance of the Country Party in a coalition—which it gladly did. For the rest of the time the Country Party has been the junior member of a coalition. This situation broadly applies in the other parliaments, except Victoria, where there is great bitterness between the two parties. They have occasionally worked together, but more often the Country Party has taken office with Labour support (but not in a coalition).
 - 66 See Fitzhardinge, *op. cit.*, for an excellent account of the fusion.
 - 67 J. A. McCallum, "How Fares Parliamentary Government in the Federal System?" in *Federalism in Australia* (Sydney, 1949), p. 112.
 - 68 See Evatt, *op. cit.*, pp. 470-1, for the formation of one "consultative council", and Warwick Fairfax, *Men, Parties and Politics* (Sydney, 1943), p. 14, for the doings of another.
 - 69 See Crisp, *op. cit.*, pp. 131-35 for a number of examples of this; and note especially the case of Liberal Speakers in Victoria who have been pressed to resign office in order to give the Party better advantage.
 - 70 The word "caucus" is rarely used now by the Liberal Party, although it was used quite freely in earlier years. "Party meeting" is the usual phrase.
 - 71 See Reports of Annual Conference of Farmers' and Settlers' Association of N.S.W. 1910, pp. 15-30, for the debates.
 - 72 See J. P. Abbott, "The Country Party" in A. C. Garnett (ed.), *Freedom and Planning in Australia* (Madison, 1949); Hancock, *op. cit.*, pp. 194-95; Evatt, *op. cit.*, chaps. LXIII-LXVI; Frank Browne, *They Called Him Billy* (Sydney, 1946).
 - 73 The matter is discussed in Brady, *op. cit.* See also Crisp, *op. cit.*, where chap. IV contains a useful analysis of the relations between Liberal and Country Parties and of the Country Party "machine".
 - 74 The Federal Council consists of the Federal parliamentary leader, the State leaders, two members of the Federal parliamentary party, three representatives from each State Council and one woman from each State; details are from the 1946 Federal Constitution of the Australian Country Party.

- 75 The details on Victoria are from Louise Overacker's *The Australian Party System* (New Haven, 1952).
- 76 In New South Wales such bodies include the Institute of Public Affairs, the Constitutional League, the People's Union, the Sane Democracy League. No suggestion is made here that these bodies are officially connected with the Liberal Party. But personal relationships are close in a number of instances, and the efforts of the bodies concerned are exerted in directions which serve the advantage of the Liberal Party.
- 77 See *Parliamentary Affairs*, V (1951) for a series of articles on the British Party System which affords a number of interesting parallels with Australian and New Zealand conditions.
- 78 The phrase is Hancock's. See his *Australia* (Sydney, 1945) for a brilliant epitome of Australian political development in terms of "ample government".

24. THE PLACE OF FINANCE COMMITTEES IN NON-LABOR POLITICS, 1910-1930 by B. D. Graham, p. 367

- 1 Maurice Duverger, *Political Parties* (London, 1954), p. xxxiv.
- 2 L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (Melbourne, 1949), pp. 132-37.
- 3 A. Wildavsky and D. Carboch, *Studies in Australian Politics* (Melbourne, 1958).
- 4 See in particular statements by F. W. Birrell, S.A.P.D., 1923, I, 95, and F. M. Forde, C.P.D., CXII, 982-83. See also a collection of the Queensland Labor Party's pamphlets held at the National Library, Canberra, especially those printed for the 1926 state election campaign.
- 5 *Argus* (Melbourne), 8 January 1912.
- 6 *Argus* (Melbourne), 5 October 1915.
- 7 V.P.D., CLXXVI, 867.
- 8 An exposé in the *Age* (Melbourne), 27 October 1922, gives a highly coloured account of the latter meeting and of the National Union's background.
- 9 See in particular *ibid.*, and *Argus* (Melbourne), 15 November 1922.
- 10 The preceding account is drawn from information given to *Smith's Weekly* by a former salaried official of the National Union; the leads given were, of course, exploited by the *Weekly's* reporters, *Smith's Weekly*, 20 February 1926, 6th March 1926.
- 11 *Argus* (Melbourne), 9 June 1920, 10 June 1920.
- 12 See *Smith's Weekly*, 6 March 1926, and a letter from J. E. Deane to W. M. Hughes, 2 July, 1924, amongst the Hughes Papers, Canberra.
- 13 See *Brisbane Courier*, 3 December 1913.
- 14 H. V. Evatt, *Australian Labour Leader* (abr. ed.; Sydney, 1954), pp. 356-57.
- 15 *Brisbane Courier*, 12 March 1925.
- 16 *Sydney Morning Herald*, 11 April 1929.
- 17 *Sydney Morning Herald*, 3 June 1927.
- 18 *Sydney Morning Herald*, 15 December 1926.
- 19 Letter from Sir John Forrest to John Sanderson, 25 July 1916, John Sanderson papers, West Australian State Library, Perth.
- 20 Annual Report of Primary Producers' Association 1926, p. 51.
- 21 *West Australian*, 4 February 1927.
- 22 *Brisbane Courier*, 3 December 1913.
- 23 *Brisbane Courier*, 17 January 1918.
- 24 *Brisbane Courier*, 23 January 1920.
- 25 *Brisbane Courier*, 31 January 1920.

- 26 *Brisbane Courier*, 3 May 1920.
- 27 *Brisbane Courier*, 23 March 1925. For the other articles in this series on which the above account is partly based see *ibid.*, 12, 14, 16, 19 and 26 March 1925. For other articles bearing on the Union's activities see *ibid.*, 3, 25, and 28 February 1925; 3, 4, and 5 March 1925.
- 28 *Graziers' Review*, 16 November 1922, p. ix.
- 29 See *Brisbane Courier*, 26 and 27 January 1923.
- 30 *Brisbane Courier*, 13 March 1925.
- 31 *Brisbane Courier*, 20 November 1925; 16 December 1925.
- 32 See *Advertiser* (Adelaide), 23 March 1918, and *S.A.P.D.*, 1923, I, 149-50.
- 33 See *Examiner* (Launceston), 3 April 1922.
- 34 *Brisbane Courier*, 3 December 1913.
- 35 *Smith's Weekly*, 6 March 1926.
- 36 See *Brisbane Courier*, 21 October 1919, 31 January 1920, 5 March 1925.
- 37 *Mercury* (Hobart), 8 November 1924.

25. GROUP INTERESTS AND THE NON-LABOR PARTIES SINCE 1930 by R. S. Parker, p. 380

- 1 W. G. K. Duncan (ed.), *Trends in Australian Politics* (Sydney, 1935), pp. 22-24.
- 2 See reports in *Sydney Morning Herald*, September-December 1943; also Warwick Fairfax, *Men, Parties and Politics* (Sydney, 1943).
- 3 F. W. Eggleston, "Political Parties and their Economic Policies", *The Annals of the American Academy of Political and Social Science*, CLVIII (1931), 245-46.
- 4 James Bryce, *Modern Democracies* (London, 1921), II, 238; W. K. Hancock, *Australia* (Sydney, 1945), chap. XI. This thesis and its variants are critically surveyed by Mr. Henry Mayer in "Some Conceptions of the Australian Party System 1910-1950", *Historical Studies—Australia and New Zealand*, VII (1956); it is also touched on by Professor Partridge in an A.N.U. seminar paper on "Political Thought of the Right since 1930".
- 5 Burgess Cameron, "A National Wages Policy", *Australian Quarterly*, XXVIII (1956) No. 1, 20. See also *New Zealand Official Year Book* 1950, p. 1033, Appendix on Economic Policy and National Income, by J. V. T. Baker and H. G. Lang, especially pp. 1064 ff., and 1036: "We have shown that under existing conditions it would need a 15 per cent wage increase to raise the 1949-50 share of salary and wage earners (in the national income) by only 1.7 per cent to the average of the preceding eleven years . . . We are therefore of the opinion that the Court (or Arbitration) is unable to maintain a given factor income distribution unless there is (a) an extensive system of price controls or (b) a complete control over the aggregate money measure of effective demand."
- 6 L. F. Crisp, *Parliamentary Government of the Commonwealth of Australia* (Melbourne, 1949), p. 116.
- 7 The following example occurred in 1926: "Week after week the *Manufacturer* openly and directly offered their 'friends the secondary industry workers' a strict quid pro quo deal: they would pay the workers practically anything they wanted and let them have 'all sorts of beautiful innovations' if the Labor forces would only assure them that the tariff would be raised to absorb the costs. Whenever higher wages or lower hours were awarded there could be an automatic provision for a Federally controlled body to raise the tariff so as to maintain the 'margin of effective protection'. With Labor support

there would be no difficulty in passing the necessary legislation." Wildavsky in *Studies in Australian Politics* (Melbourne 1958), pp. 72-74.

- 8 Contribution to discussion on chapter by J. A. McCallum, "The Economic Bases of Australian Politics" in W. G. K. Duncan (ed.), *Trends in Australian Politics* (Sydney, 1935), pp. 71-72. This whole paper and discussion are worth re-reading in the present context.
- 9 *Op. cit.*, p. 62.
- 10 Eggleston, *op. cit.*, p. 138.
- 11 *Op. cit.*, pp. 139-40.
- 12 Fairfax, *op. cit.*, p. 14.
- 13 *Sydney Morning Herald*, 2 November 1943.
- 14 *Sydney Morning Herald*, 28 October 1943.
- 15 For details, see *Sydney Morning Herald*, October-November 1943.
- 16 *Op. cit.*, pp. 135-36.
- 17 *Sydney Morning Herald*, 17 April 1945.

26. TRADE UNIONS AND LABOUR GOVERNMENTS IN AUSTRALIA: A STUDY OF THE RELATION BETWEEN SUPPORTING INTERESTS AND PARTY POLICY by R. M. Martin, p. 392

- 1 J. D. B. Miller, *Australian Government and Politics* (2nd ed.; London, 1959), p. 80.
- 2 *Ibid.*, p. 82.
- 3 S. R. Davis, in S. R. Davis (ed.), *The Government of the Australian States* (Melbourne, 1960), p. 625.
- 4 Henry Mayer, "Some Conceptions of the Australian Party System", *Historical Studies—Australia and New Zealand*, VII (1956), 270.
- 5 I am not concerned with any question of "real" interests—e.g. a situation in which a government policy, adopted against a group's wishes, is later accepted by it as favourable to its interests; or a situation in which a policy, adopted on the urging of a group, is after experience regarded by it as conflicting with its interests; or a situation in which outsiders consider that the group's interests would be better served by a policy other than that advocated by the group itself. Attention is concentrated here on the question of the group's attitude towards a policy at the time that government decides to adopt such policy.
- 6 See Miller, *op. cit.*, p. 85.
- 7 Davis, *op. cit.*, pp. 252 and 625.
- 8 *Ibid.*, p. 710.
- 9 This is not simply a matter of instinct on the part of union leaders, though it may be partly that, too. It is apparent that on such issues the official is most often conscious of his members (and, where applicable, the "out" faction in his union) looking over his shoulder. Of course, this need not always preclude officials from stalling a decision, or avoiding action on it—say, by arguing about "priorities".
- 10 *Courier-Mail*, 12 November 1955. It is to be noted that unions affiliated to the A.L.P. in Queensland are directly represented on the Q.C.E.; all but 13 of whose members at that time were union delegates.
- 11 *Courier-Mail*, 1 March, 1957. The fact that this vote was not along factional lines is suggested by the vote of 35 to 30 on the Q.C.E.'s later decision to expel Gair, *ibid.*, 25 April 1957.

- 12 Amalgamated Engineering Union (Australian Division) *Monthly Journal*, August 1962, p. 23.
- 13 The same factors, though in a rather different way, are also reflected in changed official policy on compulsory unionism. See R. M. Martin, "Legal Enforcement of Union Security in Australia", *Industrial and Labour Relations Review*, XIII (1960), 240 ff.
- 14 *Sydney Morning Herald*, 12 April 1957; cf. the voting figures in n. 12 above.
- 15 This, of course, is also the sense in which Davis speaks of government policy in the passage quoted above.
- 16 In Davis, *op. cit.*, p. 252.
- 17 It is irrelevant that by 1956 unions in South Australia had obtained some of the Queensland statutory conditions from industrial tribunals: the point is that in Queensland the unions obtained these conditions by *political* methods.
- 18 It is to be noted that the present argument does not exclude the possibility of a preferential relationship, involving fulfilment of the conditions of unanimity and exclusiveness, between a Labour government and a non-Labour supporting interest. The only limitation imposed by the argument in this respect is that if there is such a preferential relationship, it will turn on policy issues outside the area of direct and general industrial benefits, as defined above.
- 19 A. F. Davies in Davis, *op. cit.*, p. 221.
- 20 See *ibid.*, pp. 229-31.
- 21 *Party Government* (New York, 1942), p. 85.
- 22 See J. D. B. Miller, "Party Discipline in Australia", chap. 23.
- 23 *Common Cause*, 24 February 1962.
- 24 Australian Tramways and Motor Omnibus Employees' Association N.S.W. *Branch Journal*, February 1962, p. 4.
- 25 In 1957, e.g., the Tasmanian General Executive was the A.L.P.'s only major executive body on which union officials were in a minority, three out of a membership of eleven—a reversal of the normal pattern that is probably a result of the smallness of Tasmanian unions and the comparative rarity there of full-time union officials.
- 26 Davis, *op. cit.*, p. 625.
- 27 For example, the non-Labour parties and their supporting interests enthusiastically welcomed the federal industrial tribunal's abandonment of quarterly cost-of-living adjustments to the basic wage in 1953. But no non-Labour state government has since directed a state tribunal to follow the federal body's policy. The 1956 legislation of the Victorian non-Labour government, it is to be noted, formally did no more than *restore* the discretionary power of the state wages boards in this respect, by repealing the previous Labor government's direction.
- 28 See "Political Chronicle", *Australian Journal of Politics and History*, III (1957-58), 111 and 245.
- 29 Most notably, in its provision enabling employers to give such leave piecemeal, by extensions to annual leave entitlements, instead of in lump form.
- 30 Strictly speaking, federal legislation is outside the scope of these remarks, but it is worth noting that the terms of the Menzies government's 1961 measure giving long-service leave to waterside workers, and the circumstances in which it was enacted, are strikingly similar in character.
- 31 A. F. Davies, *Australian Democracy* (Melbourne, 1958), p. 143.
- 32 British "unions' hopes from (the Labour party) are less and less directly and immediately related to their industrial needs", Martin Harrison, *Trade Unions and the Labour Party since 1945* (London, 1960), p. 349.
- 33 That is not to say that Australian unions do not resort to methods other than

- political action for the achievement of their aims, nor that they do not often place greater reliance on these other methods.
- 34 The qualification is important. I am not asserting that the unions' concern with politics can be explained solely in terms of policy aims. Nor is this argument advanced as a complete explanation of the reasons why the unions have preserved their close links with the A.L.P.
 - 35 P. H. Partridge in G. Sawyer (ed.), *Federalism: An Australian Jubilee Study* (Melbourne, 1952), p. 178.
 - 36 Thus a federal Labour government in 1947 could only empower the federal tribunal to award absolute preference in employment to unionists, whereas the N.S.W. Labour government in 1959 could *direct* the state tribunal to make such awards.
 - 37 It suggests, for example, that Davies' assertion of "the obvious fact that the major interest groups in Australian society . . . are concerned predominantly with . . . Federal politics, and find very much less to interest them in the State sphere", requires rather heavier qualification than he gives it. (A. F. Davies in Davis, *op. cit.*, p. 232.) It also has important consequences for union attitudes towards the federal system of government.
 - 38 Signalized, most notably, in Henry Mayer's critique, *loc. cit.*, pp. 253-70.
 - 39 Russell H. Barrett, *Promises and Performances in Australian Politics* (New York, 1959), p. 106.
 - 40 For example, the one "industrial relations" plank in the N.S.W. Labour government's election platform of 1956 was a promise to "modernise" the arbitration system (see table in Davis, *op. cit.*, p. 628). During its subsequent term of office this government enacted legislation providing for three weeks annual leave and equal pay for women.
 - 41 Paul H. Douglas, *Economy in the National Government* (Chicago, 1952), p. 220.
 - 42 See S. Encel, "The Concept of the State in Australian Politics", chap. 3. These individual items, of course, are not confined to those on which the supporting interests are organized.

27. AUSTRALIAN TRADE UNIONS AND POLITICAL ACTION by R. M. Martin, p. 412

- 1 *Industrial Democracy* (London, 1897), pp. 247 and 253-54.
- 2 This article is concerned only with the unions, chiefly of manual workers, traditionally regarded as constituting the trade union movement.
- 3 These include not only parliamentary legislation in the strict sense, but also subordinate or delegated legislation and "pure" administrative decisions.
- 4 The term "independent political action" is often used to denote what I have preferred, on the ground of greater descriptive clarity, to call "party-political action".
- 5 See L. J. Hume, "Working Class Movements in Sydney and Melbourne before the Gold Rushes", *Historical Studies—Australia and New Zealand*, IX (1960), 268-69.
- 6 See, e.g., a resolution of the Intercolonial Trades Union Congress, 1884, quoted by J. T. Sutcliffe, *A History of Trade Unionism in Australia* (Melbourne, 1921), pp. 50-51.
- 7 See, e.g., Robin Gollan, *Radical and Working Class Politics* (Melbourne, 1960), chap. 8.
- 8 June Philipp, "1890—The Turning Point in Labour History?", *Historical Studies—Australia and New Zealand*, IV (1950), 153-54.
- 9 All Australian Trade Union Congress Minutes, October 1934, p. 27.

- 10 The "Premiers' Plan", a depression measure involving wage and social services reductions, was sponsored by a federal Labour government and agreed to by all state Premiers. It was followed, among other things, by serious divisions within Labour ranks, the parliamentary and electoral defeat of the federal government, and the dismissal from office of the Labour Premier of New South Wales by the State Governor. See P. H. Partridge, in Gordon Greenwood (ed.), *Australia: A Social and Political History* (Sydney, 1955), pp. 361-64.
- 11 All Australian Trade Union Congress Minutes, October, 1934, p. 28. A delegate agreed that it should be possible "to force antagonistic Governments to do something".
- 12 United Trades and Labour Council of South Australia Minutes, 18 November 1927.
- 13 For evidence of the willingness of British trade union leaders to consult with non-Labour governments during the 1920's, see R. M. Martin, "Steady, Sober and British", *Political Science*, XIII (1961), 85-86.
- 14 See *The Labor Call*, 22 May 1941.
- 15 Trades and Labour Council of Queensland Minutes, 25 October 1950.
- 16 Trades and Labor Council of Queensland Minutes, 25 July 1951.
- 17 On the Industrial Groups, see especially D. W. Rawson, "The A.L.P. Industrial Groups—An Assessment", *Australian Quarterly*, XXVI (1954), No. 4, 30-46; Ian Campbell, "A.L.P. Industrial Groups—A Reassessment", *Australian Journal of Politics and History*, VIII (1962).
- 18 The council's field of interest was so broad that the benefits of participation were less obvious and less immediate than in the case of other bodies with more specific functions. In addition, the government treated the council as something of a show-piece, which in the eyes of many gave participation a political flavour and provoked criticism from Labour party and left-wing union quarters. Government backbenchers reinforced this impression by embarrassing the Labour opposition with assertions that the council's consideration of certain legislation implied A.C.T.U. approval of its provisions. The last straw was the Government's failure to consult the council before bringing down the 1956 amendment to the Conciliation and Arbitration Act, the unions' complaints on this score being echoed by the employers' representatives on the council.
- 19 Kenneth F. Walker, *Industrial Relations in Australia* (Cambridge, Mass., 1956), p. 333.
- 20 The members of the growing organisations of non-manual employees are also relevant here, though outside the terms of reference of the present article; see n. 2 above.
- 21 E.g. the *Advertiser* (Adelaide), 13 May 1953; *C.P.D.*, H. of R. XVIII, 502; *Sydney Morning Herald*, 27 January 1959, 17 November 1960.
- 22 See B. A. Santamaria, in Henry Mayer (ed.), *Catholics and the Free Society* (Melbourne, 1961), chap. 3; Tom Truman, *Catholic Action and Politics* (Melbourne, 1960), chap. 1; also n. 17 above.
- 23 Report of the Convention of Federal Unions Called by the Federal Government (June 1942), p. 16.
- 24 See R. M. Martin, "The Rise of the Australian Council of Trade Unions", *Australian Quarterly*, XXX (1958), No. 1, 30-42.
- 25 This correspondence is reproduced in the *A.C.T.U. Bulletin*, September 1956, pp. 12-13.
- 26 See R. M. Martin, "The Authority of Trade Union Centres: The Australian Council of Trade Unions and the British Trade Union Congress", *Journal of Industrial Relations*, IV (1962).
- 27 See R. M. Martin, "What is at Stake in the Western Australian A.L.P. Controversy?", *A.P.S.A. News*, V (1960).

- 28 E.g. the controversy in 1957 over the government's long-service leave proposals; and, in 1953-55, over the questions of union representation on the advisory committee on workers' compensation and the committee's subsequent recommendation to government.
- 29 E.g. the Menzies government's acceptance, in place of legislation, of A.C.T.U. assurances on "indemnity payments" to maritime unions in 1958 and on compulsory political levies in 1959; and its abandonment of important and controversial provisions of the Stevedoring Industry Act of 1954.
- 30 See R. M. Martin, "Trade Unions and Labour Governments in Australia: A Study of the Relation between Supporting Interests and Party Policy", pp. 392-411 of this book especially pp. 403-5.
- 31 These advantages can be completely discounted only on the assumption that the Labour party is *permanently* excluded from office, an assumption that is difficult to justify in the case of even a single Australian state. Moreover, a relevant effect of the Federal system, which seems likely to persist, is the fact that at all times since 1910 there has been at least one Labour government in office somewhere in Australia; and, for example, while the Labour party has been in opposition at the federal level throughout the period since 1949, it has controlled as many as five, and never less than two, of the six State governments at the one time.
- 32 D. W. Rawson, "Politics and Responsibility in Australian Trade Unions" *Australian Journal of Politics and History*, IV (1958).
- 33 See R. M. Martin, pp. 392-411 of this book.
- 34 Martin Harrison, *Trade Unions and the Labour Party since 1945* (London, 1960), p. 349. This was written before the advent of the Wilson government and its adoption of an "incomes policy"; but the contrast is not vitiated thereby, particularly given the "restraining" character of that policy.

28. AUSTRALIAN FARM ORGANIZATIONS AND AGRICULTURAL POLICY by Keith O. Campbell, p. 426

- 1 This does not mean that individual farmers in some areas do not belong to more than one farm organization. However, such overlapping of membership as exists does not destroy the validity of the generalizations made here.
- 2 Two major reasons were given by the A.W.G.C. for severing its connections with the N.F.U. One was financial. The President explained that "The Council believes the return by way of service for our membership fees is not commensurate with the cost", *Sydney Morning Herald*, 30 June 1965. The second very significant reason was an alleged divergence of economic interest between protected and unprotected primary industries. To quote the A.W.G.C. President again: "My Council, which is responsible for protecting the interests of the unprotected wool and meat producers, has formed the view that those interests are not sufficiently consistent with producers of commodities which are mainly marketed within Australia (or which enjoy export subsidies) to warrant an undertaking by the Council to be limited in its actions by the requirements of the N.F.U. constitution . . ." Minutes, 7 July 1965.
- 3 Recently a new consultative council of farm organizations has been formed in Western Australia.
- 4 *Primary Producer*, 22 April 1955.
- 5 J. G. Crawford, *Australian Agricultural Policy* (Joseph Fisher Lecture in Commerce, Adelaide, 1952), pp. 6 and 49.
- 6 *Country Life*, 18 January 1966.

- 7 *Sydney Morning Herald*, 15 September 1964. Pendleton Herring expressed the same thought thirty years ago when he said: "The greater the degree of detailed and technical control the government seeks to exert over industrial and commercial concerns, the greater must be their degree of consent and active participation in the very process of regulation if regulation is to be effective or successful", Herring, *Public Administration and the Public Interest* (New York, 1936), p. 192.
- 8 In one State, Queensland, the Primary Producers' Organization and Marketing Act, as well as providing for the constitution of state marketing boards, provides for statutory membership of certain farm organizations e.g. the Queensland Cane Growers' Council.
- 9 Address to the Annual Conference of the Australian Primary Producers' Union by the Rt. Hon. John McEwen, 21 October 1964, p. 4.
- 10 Interestingly, attempts have been made to reconcile this tenet of Country Party philosophy with the economic liberalism espoused by the Liberal Party. See address by Hon C. F. Adernann to the Annual Conference of the National Farmers' Union of Australia, 27 October 1960, pp. 1-2.
- 11 C.P.D., H. of R., XLIX, 3044-45.
- 12 See "The R.S.L.", *Current Affairs Bulletin*, XXXV (1965), 187.
- 13 Other examples would be the report prepared by Personnel Administration Pty. Ltd. purporting to justify increased expenditure on wool promotion and the report prepared by the last Commonwealth Sugar Industry Committee of Enquiry.
- 14 Formal representation at basic wage hearings is not necessarily confined to organizations registered with the Court. The failure of the N.F.U. to appear in 1961 despite a challenge by the Prime Minister was explained in terms of lack of funds. See Presidential Address to the 1961 Annual Conference of the National Farmers' Union, p. 2.
- 15 Kingsley Laffer, personal communication. See also Laffer, "Wages Policy" in A. Davies and G. Serle (eds.), *Policies for Progress* (Melbourne, 1954), pp. 88-89; and D. Whitehead and M. Cockburn, "Shares of National Income: Some Neglected Implications", *Journal of Industrial Relations*, V (1963), 135-36.
- 16 In early 1966, the headquarters establishment of the National Farmers' Union in London numbered 190. Of these positions 36 were secretarial, 59 clerical and the remaining 95 were broadly classed as professional. The American Farm Bureau Federation on the other hand has a staff of 53 professional employees and 33 clerical and secretarial workers.
- 17 See K. O. Campbell, "Agricultural Adjustment in a Changing Economy", *Journal of the Australian Institute of Agricultural Science*, XXX (1964), 162-63.
- 18 Geoffrey Sawyer, *Australian Government Today* (rev. ed.; Melbourne, 1963), p. 56.
- 19 See B. D. Graham, "Graziers in Politics", *Historical Studies—Australia and New Zealand*, VIII (1959), 387.
- 20 Address to the Annual Conference of the Australian Primary Producers' Union by the Rt. Hon. John McEwen, 21 October 1944, p. 2.
- 21 *Age* (Melbourne), 25 February 1961.
- 22 Address by Hon. C. F. Adernann to the Annual Conference of the Queensland Council of Agriculture, 31 July 1963, p. 1.
- 23 Address by the Chairman, Hon. C. F. Adernann, to the Australian Agricultural Council, 8-9 February 1965, p. 4. See also Address by Hon. C. F. Adernann to the Annual Conference of the National Farmers' Union of Australia, 26 October 1960. Senior administrators of the Department of Primary Industry have also joined in these pleas for unity. Even the former Prime Minister, Sir Robert Menzies, has urged that the "views of primary

- producers as a whole in Australia . . . should be as far as possible, fully concerted ones", Address to the Annual Conference of the National Farmers' Union, 15 November 1962.
- 24 Other examples of intra-industry conflicts would include those in the citrus and barley industries. The defensive stand of the Sydney-based Milk Zone Dairymen's Council against the pressure by butter producers to get a footing in the more lucrative Sydney milk market might also be considered as evidence of an intra-industry conflict.
 - 25 See *Report of the Wool Marketing Committee of Enquiry* (1962), pp. 128-31. The Philp Committee also seems to have been carried away by the notion that a single voice in the industry was essential when in paragraph 674 it spoke of the need for a "commission or board upon whose decisions the Government could confidently rely and which could speak with final authority on all matters affecting the industry". This implies to say the least a somewhat unconventional theory of government.
 - 26 See "Wool and Politics", *Current Affairs Bulletin*, XXXVI (1965), 188. In the wool marketing referendum every grower of 10 bales of wool or more or owner of 300 sheep was entitled to one vote.
 - 27 McEwen and Adermann are not the first proponents of farm organizational unity. Franklin D. Roosevelt, for one, originally advocated such an approach during the New Deal period in the United States. But some of the distinguished administrators that served in the United States Department of Agriculture during this period have since pointed to the dangerous nature of such a power situation. See Christiana Campbell, *The Farm Bureau and the New Deal* (Urbana, 1962), pp. 51, 171, and 194.
 - 28 *Commercial Policy in Relation to Agriculture* (Tenth Report of the Rural Reconstruction Commission) (Canberra, 1946), p. 237.

29. TRADE ASSOCIATIONS IN THE AUSTRALIAN ECONOMY by R. D. Freeman, p. 443

- 1 J. Hutton, "Restrictive Trade Practices Legislation, Trade Associations and Orderly Marketing Schemes in Western Australia", *Economic Record*, XL (1964).
- 2 Alex Hunter, "Restrictive Practices and Monopolies in Australia", *Economic Record*, XXXVII (1961).
- 3 Second Report of Registrar of Trade Associations for period to 30th June, 1961, Schedule 1.
- 4 P. Cook, *Trade Associations in South Australia* (B.Ec. thesis, University of Adelaide, 1961), p. 2.
- 5 *Report of the Royal Commission on Prices and Restrictive Practices in Tasmania* (1965), p. 9.
- 6 John Niland, "Employers' Associations in New South Wales", *Journal of Industrial Relations*, VI (1964), 58.
- 7 P. Cook, *op. cit.*, p. 4.
- 8 Objects of The Victorian Chamber of Fruit and Vegetable Industries, Clause N.
- 9 Second Report of Registrar of Trade Associations for period to 30th June, 1961, p. 6.
- 10 Political and Economic Planning, *Industrial Trade Associations: Activities and Organization* (London, 1957), pp. 66-68.
- 11 *Ibid.*, pp. 68-107.
- 12 *Industry Today*, VII (1964), 103.

- 13 *Australian Soft Drink Journal* (January 1959), p. 30.
- 14 Political and Economic Planning, *op. cit.*, p. 112.
- 15 Sir Garfield Barwick, *Trade Practices in a Developing Economy* (G. L. Wood Memorial Lecture 1963), p. 9.
- 16 Hunter, *op. cit.*, p. 26.
- 17 Calculated from the tables "Salaries and Wages Paid, 1961-62", p. 163, and "Factories: Value of Production, 1961-62", p. 169, *Commonwealth Year Book* No. 50.
- 18 P. H. Karmel and M. Brunt, *The Structure of the Australian Economy* (Melbourne, 1962), p. 79.
- 19 *Ibid.*, p. 74.





